DOCUMENT RESUME

ED 135 264 HE 008 439

TITLE Guaranteed Student Loan Amendments of 1976. Ninety-fourth Congress, Second Session. Report No. 94-1232.
INSTITUTION Congress of the U.S., Washington, D.C. House.
PUB DATE 8 Jun 76
NOTE 80p.

EDRS PRICE MF-$0.83 HC-$4.67 Plus Postage.
DESCRIPTORS *Federal Legislation; *Federal Programs; *Higher Education; Information Needs; Institutional Role; Interest; Problems; State Agencies; State Government; *Student Financial Aid; *Student Loan Programs; Student Responsibility; Student Role
IDENTIFIERS Bankruptcy; Defaulting; *Guaranteed Student Loan Program; *Higher Education Act

ABSTRACT

A report on the Guaranteed Student Loan Amendments (H.R. 14070) to Title IV of the Higher Education Act of 1965 considers the problems behind and implications of the loan program. Chief among the problems are the default rate, access to loans, the schools as lenders, and the role of the states in administering the program. Changes recommended include encouraging the states to establish loan agencies, limitations on the lending capacities of the schools, loan limits, interest benefit eligibility changes, default prevention measures, improved data collection, restrictions on setting the special allowance rates, and prevention of discharge of loan responsibility through student bankruptcy. A cost estimate is provided, as are the legislation text, explanations of the text, and opinions of individual legislators. (MSE)

House of Representatives

94th Congress, 2d Session } HOUSE OF REPRESENTATIVES { Report No. 94–1232

GUARANTEED STUDENT LOAN AMENDMENTS OF 1976

June 8, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Perkins, from the Committee on Education and Labor, submitted the following

REPORT

together with

INDIVIDUAL, ADDITIONAL, AND DISSENTING VIEWS

[Including cost estimate and comparison of the Congressional Budget Office]

[To accompany H.R. 14070]

The Committee on Education and Labor, to whom was referred the bill (H.R. 14070) to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out everything after the enacting clause and inserts in lieu thereof the matter printed in italic type in the reported bill.

Hearings and Committee Action

During the 93rd Congress, the Special Subcommittee on Education held twelve days of hearings solely on loan programs. During the 94th Congress, most of the witnesses who appeared during the twelve further days of hearings on H.R. 3471, a bill to amend the entire student assistance program, testified with regard to the loan program.

The Subcommittee on Postsecondary Education, as it is now called, met on April 7, 1976, to discuss the proposals which had surfaced with regard to the Guaranteed Student Loan Program. Following considerable further discussion among Subcommittee Members, the Full Committee on June 2, 1976, in open legislative session, called up H.R. 14070 and adopted an amendment to that bill in the nature of a substitute. H.R. 14070, as amended, was approved by a voice vote. This report addresses itself to the text of that substitute amendment.

Background of the Legislation

The Guaranteed Student Loan Program is at one and the same time the most complex, the most controversial and the most comprehensive of the programs operating under the Higher Education Act. Although there are other HEA programs which, given full funding, would involve higher Federal outlays, there are none which generate more revenues for postsecondary education. And this program is certainly the most widely discussed and frequently examined of all the programs under the Act—though not necessarily the best understood.

The controversies involved give rise to a large number of "simple solutions" to the program's problems. Its complexity and the number of differing interests involved assures that the number of simple solutions far exceeds the number of individuals and organizations who understand how the program functions. And the natural tendency of individuals and organizations to look at programs from the point of view of their own interests gives rise to an understandable confusion as to what the problems are, and how they can best be met.

The Committee has sought, in the midst of numerous and conflicting recommendations, to develop a student loan program which will be in the interests of students. Lenders, schools, government agencies, all have legitimate interests and they have each made substantial contributions to the operation of this program. But, as with the earlier legislation this Committee reported to the House to amend the rest of the Higher Education Act, the focus of this bill is on serving the student, as a student, and on serving the larger society of which the student forms a significant segment. The development of this legislation can only be understood in that context.

There are those who simply look upon student loans as another form of student assistance, and who believe it to be in the interest of students to make more and larger loans available on the easiest terms and conditions manageable. From this point of view, clearly, the question is how to increase the amount of loan capital available, and how to remove barriers to the making of loans to students.

At the other extreme, there are those who believe that student "assistance" and student loans are at least mutually exclusive, if not downright contradictory terms; that to put the financing of higher education primarily on a basis of student credit is to capitulate wholly to the "full-cost pricing" theory strongly touted by some economists, and widely condemned by students. From the point of view of those who believe that student indebtedness and student assistance are not the same thing, the answer is to reduce the number of lenders, culling out those who have a direct and immediate monetary interest in persuading more students to go deeper in debt, and to help students who are in the debt cycle out of it as quickly as possible. To those who share this point of view, the student is the victim, not the beneficiary, of student loan programs.

Your Committee has accepted neither point of view fully.

The bill which this report recommends to the House is based on the proposition that a loan program is not an unmixed blessing, nor an entirely unmitigated evil. The likelihood that grant and work programs will be expanded, and fully replace the dollars generated by this program is, at least in the foreseeable future, a minimal one. The possibilities of Federal and state institutional assistance making possible the kind of universal low-tuition program that would remove the need for a "Learn now, and pay later" plan are also not on the nation's immediate agenda.

In today's fiscal and educational policy circumstances, then, loans are needed. Our task is to so improve the structure of the existing program so as to maximize its service to students and minimize the possibility of abuse—abuse by schools, abuse by lenders, and abuse by or of students.

The bill seeks to meet each of these objectives in varying ways. But before the report describes the solutions, it may be useful to outline the existing program, so that the problems and solutions may be perceived in their proper context.

The Guaranteed Student Loan Program is, in reality two programs. In 26 states, there has been created a State agency which serves to guarantee lenders against losses they may suffer in making educational loans. In these "agency states", the Federal government's role is largely that of re-insuring the losses of the state agencies. On loans properly made, and conforming to the terms and conditions set forth in the law, the states are required to insure the lender for 80 percent of his losses (though virtually all of the States do insure up to 100 percent of those losses), and the Office of Education pays the State agency 80 percent of its payments to lenders.

In the remaining States, there are no state agencies, and the Office of Education serves lenders therein as a direct guarantee agency. In all of these FISL (Federal Insured Student Loan) states, as in most of the agency States, the lender enjoys a 100 percent guarantee.

In addition to serving in lieu of the state agency in the "Federal states", the Office of Education can also serve as a direct guarantor even in "agency States" in situations where the lender cannot obtain a state guarantee (this mostly involves schools as lenders), or where a lender, who serves students from a number of states, cannot get substantially all of his loans guaranteed by a single guarantee agency.

Loans under the program are of two kinds—those with interest subsidy (the vast majority), and those without. Loans to student borrowers who are from families with adjusted family incomes below $15,000 and who are borrowing no more than $2,000, are automatically eligible for the payment of in-school interest by the Office of Education. Students from families with larger incomes, or who are borrowing larger sums are not automatically eligible, but their eligibility can be established by the use of need analysis systems of the sort used to establish eligibility under student grant and work programs.

All loans, "subsidized" or "non-subsidized" are eligible to have paid to the lender by the Commissioner, a special allowance established each quarter by the Secretary of HEW, not to exceed 3 percent. This special allowance is paid on every loan, regardless of the borrower's family circumstances, and is paid for the life of the loan.

The interest rate on the loan—paid by the Commissioner during the in-school period and for nine months thereafter in the case of a "subsidized" loan, and paid by the student in the case of a "non-subsidized" loan—is limited by law to 7 percent.

The Act sets an upper limit of $2,500 per year on any guaranteed loan, with an aggregate ceiling of $7,500 for any undergraduate student, and an aggregate level of $10,000 for a graduate or professional student. The states are permitted, and some exercise their option, to set lower loan ceilings—commonly for freshmen or sophomores, less frequently for upper division students. However, the Federal law does require a State to agree to guarantee at least an annual loan of $1,000.

The Problems

I. *The Default Rate.*—The rate by which students find themselves unable to repay guaranteed loans has increased in recent years, and some investigations have given rise to fears that the rate may increase significantly beyond what it has already reached. The Committee is not prepared to give full credence to all of the horror stories about the program. In fact, the default rate in the program varies from 18 percent in the FISL segment to an average of 7 percent among the state agencies. Without capitulating to the fears of imminent disaster, the fact is that these rates are already higher than they need to be.

The fact that the rate in the FISL program is twice what it is in the State agency program is not an accident. To some extent, the different default rates reflect FISL's willingness to guarantee loans by lenders—largely school lenders—whose wish to use the program to recruit students overcame any care and diligence with which they might otherwise have examined the question of whether or not a loan to a particular student was a life raft or a millstone.

A second factor in the differential default rate lies in the limited ability of the FISL program to provide lenders with the kind of pre-claim assistance that state agencies can provide—not because State employees are any more competent or dedicated than Federal employees, but simply because the job facing any single State agency is smaller, and hence more manageable than the job facing FISL in dealing with half of the nation!

There are other factors which enter into in the default rate problem, however. Testimony before the Subcommittee, during each of its several hearings on the loan programs, emphasized that, as one expert suggested, a loan is collected or allowed to go into default, on the day it is made. If a student clearly understands that he is entering into a debt, that the act of lending him money is a pure business transaction, from which the lender expects interest income and repayment that student is far less likely to go into default, than if he believes that the loan is simply a subsidy much like his grant and work assistance.

The misconception is more likely to occur when the lender is the school, or has delegated much of its lending function to the school. In cases where a student leaves the schools before completing his education, or leaves it disgruntled about the quality of that education—and certainly in those scandalous cases where the "school" simply goes out of existence after having gotten the student into debt—the student is very apt to wonder what he is paying for when he is asked to begin repayment. It is because of situations like that that one observer has commented that "educational loans for most students are like cholera for medical students—an interesting educational device, but hardly to be confused with assistance."

Evidence brought before the Committee also suggests that loans made in the student's first year are more likely to go into default than loans made further on in the student's career, when the student has adjusted to a postsecondary educational environment, knows what can be expected in the way of employment after graduation, and is reasonably committed to pursuing both his education and his prospective career.

The default problem is in some cases, as in any other form of credit transaction, a case of the individual borrower's inability or unwillingness to pay. But in a very large portion of the cases, it reflects an imperfect understanding of the nature of the loan—sometimes attributable to the naivete of the borrower, sometimes attributable to the casual manner in which the loan is treated by the school, sometimes to both.

II. *Access to Loans.*—In many parts of the country, it is becoming increasingly difficult for a family to secure a Guaranteed Loan at all from their local banker. This problem has been dramatized in the State of California, where very large FISL lenders, after several years of making loans, are dropping out of the program altogether. The reasons are many, of course, and some are not likely to be solved by legislation. Some lenders simply find they can get a better return on their depositor's money by lending on homes, automobiles, television sets, or industrial development, than by lending on educational opportunities. Some have been frightened out of the program by the "horror stories," and, believing that if anything can go wrong, it will, have decided to drop out before they are saddled by enormous uncollectable debts. Still others, and particularly those banks in FISL states, have indicated that their real problem is less with the level of the yield or the fear of default than with the long delay experienced in having claims serviced.

The special allowance is frequently not set by HEW until well into the quarter following the quarter for which it was to have been paid. It appears that HEW sets the special allowance each quarter at about where it has been in order to keep the banks in the program. But they take so long in setting it, that banks and other lenders have virtually with one voice urged the Committee to tie the special allowance by law to some specified indicator, removing the need for the Secretary of HEW to set it, and removing the protracted wait to find out what it was.

A second, and even more irritating problem to lenders is the long delay in the FISL states in hearing from HEW in response to claims or even simple correspondence. "We can afford to lend our money at 7 percent" said one group of lenders last year, "but we cannot afford to wait a year or more to find out if a default claim is going to be honored." In the calculus of banking, time is money, in a literal sense.

III. *Schools as Lenders.*—Some of the problems which confronted the Committee arose out of the controversy as to who should perform the lending function under this program. Lending is now done in large part by "regulated" commercial banks, savings and loan associations, credit unions, and other general purpose financial institutions, though some States have set up direct lending programs, and about 150 schools around the nation have secured licenses as FISL lenders. That the commercial lenders will probably continue to be the chief source of capital in the program is not widely disputed. The question is what role should be played in the program by the "unregulated" State or school lender. There are those who point out that the default rates and the other major abuses in the program seem to concentrate to a significant degree around the unregulated lenders.

At the same time, defenders of the unregulated lender point out that there are areas, and not all of them are in FISL states, where commercial lenders simply aren't interested; that there are whole classes of students who have good reason to believe they will continue to be discriminated against by commercial lenders, and that if students are to have reasonable access to loans, there must be alternative sources of credit. Perhaps the most reasonable statement of the problem and of the middle-ground position which the Committee eventually took was that of William G. Bowen, President of Princeton University, who pointed out that "Indeed, if these problems had not existed, Princeton would never have become a lender under the federal program in the first place. Our function is education, and it was—and is—only our desire to see that loan funds are consistently and equitably available to all of our students that has led us to participate in this program."

IV. *The Role of the States.*—The law establishing the program begins by stating that "The purpose of this part is to enable the Commissioner (1) to encourage States and non-profit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions . . . (and) (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program . . ." The language quoted clearly implies that the law was intended to put a priority on the creation of state guarantee agencies (or the use of private non-profit insurers, as is done by some States) and to allow the growth of the FISL program of direct Federal insurance only as an "interim" device. The Committee has had considerable occasion to reassess the wisdom of this policy during the past three years, and the overwhelming impact of the evidence before us has been to confirm what the Congress said in 1965 and reiterated in 1968.

Your Committee still believes that the state guarantee agency is the preferable device for the management of student loan insurance programs, and that FISL is and should remain a second choice.

But the Committee has not accepted proposals to establish a fixed date for the termination of the FISL program. Proposals to further encourage the States have been agreed to, (and will be described below) and a renewed emphasis is voiced in the proposed bill on the use, as an alternative, of private non-profit loan guarantee organizations, where the States cannot or do not establish their own agencies.

But the Committee does recognize that there are situations where a FISL program should remain available. The Committee does not believe that the access of students to some kind of a loan program—even as unsatisfactory a loan program as exists in many of the FISL states—would be automatically enhanced by the abolition of FISL where there is no state agency ready to take over. And the experience with State agencies does not altogether answer the objections of those who suggest that State agencies may not always provide the full range of insurance that is needed.

The State agencies have themselves raised some serious objections to the present law, and the accompanying legislation recognizes some of those objections. The agencies now have to turn over to the Federal government any money they collect on loans on which they have previously collected reinsurance payments from the Commissioner. The States have suggested that they ought to be able to retain some of those collected dollars in order to improve their collection machinery. The States have asked that they receive a modest administrative allowance, analogous to the allowance the Commissioner pays to schools to cover the cost of administering student aid programs. These requests met with approval in the Committee.

The State agencies have also asked for equality of reimbursement as compared with the FISL program. The Committee is sympathetic to the argument that the States ought to receive a higher reinsurance rate where the State's performance is above average, but somewhat less where the State does not do the kind of job that makes the State agencies the preferred instrument of the program.

The Committee believes that State agency performance standards stem at least in part from the fact that the State agency is protecting the State's money, and not simply operating on a "free ride" basis. The Committee is willing to lower the price of the ride, but is reluctant to remove the major incentive for high-quality State performance.

A third issue relates to States as lenders. In some States, the direct lending program has been set up in order to defuse the public reaction to sharply decreased State support of the existing State postsecondary education system. A State which wishes to approach full-cost pricing is free to do so, of course, but the Committee is reluctant to see this program utilized to protect legislators and governors from the consequences of these decisions. The Committee is not convinced that shifting the burden of education costs to loans "protects" students.

THE SOLUTIONS

The solutions the Committee recommends are not simple. They do not come down wholly on one side or the other of the major controversies. But we believe they will work.

I. *Program Structure.*—The bill recommends the retention of both the GSLP and the FISL programs. However, new language is put in the law to require the Commissioner to do what the law has mandated that he do for some years now without either visible action on his part or visible results. Specifically, the bill requires the Commissioner to develop and carry out a plan to encourage states to create state agencies, to report on that plan within 90 days of the enactment of this bill, and to report before June 30, 1977 on what he has done and what changes in law, policy and regulations are needed to encourage the creation of state agencies.

This is not an idle gesture. The Committee expects the Commissioner to make a [illegible] effort [illegible] has been mounted in the past to carry out his clear responsibility under the language of Sec. 421, and if, in his judgment, existing law or regulations stand in the way of the creation of new state agencies, he is directed to advise the Congress specifically what laws and what regulations should be changed in order to meet this long-stated Federal policy.

Some of the changes that would do this are already obvious, and are made by this bill.

The request that State agencies be enabled to retain up to 30 percent of their collections on defaulted loans in order to enhance their ability to improve collection systems is included in the bill, as is a very carefully drawn up list of activities this money can be used for. This provision of the bill is intended specifically and solely to enhance state collection efforts, and not to reduce demands on State budgets. In all cases the cost of collections must be documented. States may not retain 30 percent without that documentation.

The State agencies are given an administrative cost allowance of up to 1 percent of the amount of loan principal guaranteed by the State in each year. Of this administrative allowance, not less than one-fourth must be used by the State to provide field services for eligible lenders or to promote commercial lender participation.

The question of the degree of Federal reinsurance of state losses is placed on a performance basis. State losses due to the payment of claims arising from death, disability and bankruptcy, all of which are clearly unrelated to State performance, are to be reimbursed at 100 percent. State losses on other sorts of claims are to be reimbursed at 100 percent up to 7 percent of loans in repayment which are described in the bill as "the original principal amount of loans insured by it reduced by (A) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (B) the original principal amount of loans insured by it which have been fully repaid, and (C) the original principal amount insured on those loans for which payment of the first installment has not become due." New State agencies will be entitled to the full 100 percent reimbursement for the first five years until their lending-repayment cycles get into full operation. If a State's reinsurance rate goes above 7 percent in any given year, the Commissioner shall only pay 90 percent on the remainder of the State's losses in that year. The slate is wiped clean at the beginning of each fiscal year, and the 100 percent reinsurance begins again lasting unless and until the rate again goes beyond 7 percent. For most of the States, this can mean in effect a continuing 100 percent reinsurance rate. But it is not "free money." It does require the States to continue the performance that is now keeping their average default rate at 7 percent—half of the FISL rate. States which establish new guarantee agencies subsequent to the passage of this bill are assured of 100 percent reinsurance for the first five years, in effect, until the first full-term loans enter repayment status.

In addition to these improved reinsurance provisions is an amendment which requires the Commissioner to prepay a portion of a State's anticipated reinsurance payments for the purpose of establishing a revolving fund from which default payments to lenders are to be made and to which reinsurance reimbursements are to be deposited. The amount of this reinsurance advance in each state is equal to the greater of $50,000 or 5 percent of the amount of those loans which were converted to repayment status the previous fiscal year. To allow for growth and maturation of new State programs, the amount of the reinsurance advance is augmented, if justified by the formula, at the end of each of the succeeding four fiscal years. The Committee would not anticipate the same "start up" problems for States which have guarantee agencies in existence at the time of enactment and such States, therefore, are eligible for adjustments to their original advance for only the following two fiscal years.

In addition to these incentives for the creation of State guarantee agencies, the Commissioner is directed to look very seriously at the utilization of private nonprofit guarantee agencies or organizations, such as (but clearly not limited to) the United Student Aid Fund, a private guarantee organization that now performs guarantee services for some States. The bill encourages the Commissioner to consider carefully applications from such organizations to perform the functions of a State agency, and to act upon such applications within 90 days of receiving them. The bill further requires the Commissioner to advise this Committee and its counterpart in the Senate of his disposition of any such application. H.R. 14070 does not direct that the Commissioner shall act favorably on any such application. That is a matter for his judgment. But it does suggest that the private nonprofit agency, as an alternative to sole reliance of FISL, be seriously considered in those States which do not create States agencies.

A change in the provision establishing the student loan insurance fund makes the borrowing authority of the Commissioner subject to limits contained in appropriation Acts. This modification of the statute is necessary to bring the guaranteed student loan legislation into conformity with the requirements of the Congressional Budget Act.

Another provision of the reported bill would permit the Commissioner to utilize private collection agencies, State student loan insurance agencies, or State guarantee agencies for the recovery of defaulted loans. This provision is merely permissive; it does not compel their use but would, if utilized, greatly strengthen the Commissioner's ability to improve on collection under the Federal program.

II. *Lenders.*—The Committee considered making schools generally ineligible to serve as lenders. That draconian proposal was rejected, but, acting on the advice of distinguished educators who pointed out that schools only sought to be lenders when regulated lenders were not available, the Committee has placed some limitation on what unregulated lenders can do.

First, schools may not lend to more than 50 percent of their own undergraduate students, and state direct lenders may not lend to more than 50 percent of the undergraduate students in attendance at any school in the State. Loans by unregulated lenders are subject to the same $2,500 annual limit applied to other loans, but a loan by such a lender may also not exceed 50 percent of the total cost of education at the institution involved, and, where a loan is made by a school to a student in his first year, it must be made in at least two installments if it exceeds $1,500.

Finally, in order to qualify for loans from an educational institution, an undergraduate student must, prior to obtaining the first such loan, present the school with a statement from a commercial lender that he sought and was unable to secure a loan. The statement need not state more than the name and address of the lender, the date that he asked for a loan, the name of the student, and the fact that the loan was rejected. The Commissioner, the schools, and the State agencies are all herewith put on notice that this law provides them with no authority to ask any lender for any further data. If a lender wishes to do so, he may utilize the forms already prescribed under the regulations promulgated for the enforcement of the Equal Credit Opportunity Act, but the zeal of public agencies for the gathering of information beyond what is specified in this report is to be kept under a very tight rein. The American Bankers Association has advised this Committee that it considers this documentation requirement as a useful device, but the Committee believes that its utility could be vitiated by turning it into another example of bureaucratic paper collection.

Since this documentation requirement has been the objection of considerable discussion, it may be useful to point out what is *not* required.

The bill does *not* require an exhaustive proof by the student that he was unable to secure a loan from any commercial lender.

The bill does *not* require the refusal to be from a lender in the student's home town. It does *not* require that the lender explain or justify his refusal. *One* refusal from any eligible lender, *without further comment* will fully meet the requirements of the law, and, to reiterate, the *law provides no basis for regulations imposing added requirements.*

The bill prohibits home-study schools from acting as lenders. An early proposal prohibiting students at home-study schools to participate as borrowers was rejected, but the facts do suggest that many of the most flagrant abuses of the school's role as a lender arose in cases involving home-study schools. Other kinds of schools, both proprietary and "nonprofit" have been involved in problem areas, but there is a qualitative difference between their record and that of the home-study schools.

A further effort to rid the school-as-lender situation of some of its weaknesses and temptations is found in the bill's provisions making it clear that where a lender has delegated to a school a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of the loan, the loan shall be deemed to have been school-originated. In addition, the definition of eligible lender excludes "banks" whose primary consumer credit function is the making or holding of student loans.

III. *Loan Limits.*—Earlier proposals considered by the Committee would have severely limited the amount that a student could borrow under this program. The Committee rejected these proposals for reduction, and retains the existing $2,500 limit for a year's borrowing by a undergraduate, and the existing $7,500 aggregate ceiling for undergraduate borrowing under this program. Graduate and professional student loan limits are increased from the present $10,000 to $15,000, with permission to borrow up to $5,000 in a given year. These aggregate limits are on the total unpaid principal which may be outstanding at any one time. Thus, if a student borrows $7,500 as an undergraduate, completes his baccalaureate degree and pays, for example, $2,500 of it before making any further loans for the financing of his graduate study, he may borrow up to $10,000 for the graduate costs. If, on the other hand, he goes directly from undergraduate to graduate study, and has borrowed the maximum as an undergraduate, he is only entitled to another $7,500 in loans as a graduate student. student.

The present law gives the Commissioner the right, which this bill retains, to raise these limits by regulation where he determines that a higher amount is warranted with respect to students engaged in specialized training requiring exceptionally high costs of education. The Commissioner is certainly not urged to exercise this authority easily or widely. But the authority does exist, and where the Commissioner thinks the situation warrants, and the student's probable earnings immediately upon the completion of his training will enable him to sustain heavier indebtedness, he is allowed to utilize it. The Committee would offer one further caution, however. The Commissioner is not to utilize this authority simply in order to meet the revenue needs of particular high-priced schools. It is intended for use where the basic cost of a particular *kind of education* is very high.

IV. *Interest Benefit Eligibility.*—Section 428(a)(3) of the Higher Education Act of 1965 provides that students who are eligible by reason of need are entitled to have paid on their behalf, to their respective lenders, a portion of the in-school and deferral period interest. This entitlement operates as one within the meaning of "spending authority" as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974. The provision in section 428(a)(3) which deems the holder to have a contractual right to the interest payment is, in the opinion of the Committee, a device to secure the second party beneficiary rights of lenders to the amounts which the students are entitled to have paid, and does not convey "spending authority" within the meaning of section 401(c)(2)(A) by authorizing the Commissioner "to enter into such contracts." Student eligibility for interest benefits under this program has always been closely related to the student's family income. For the first seven years, a simple income test was applied. A student whose adjusted family income was $15,000 was eligible to have in-school interest benefits paid. A student from a higher income family was not. In many cases, this meant the difference between getting the loan and not getting it, because the lenders, for the most part, simply do not find the yield on this program adequate to pay for the costs of billing students for the interest on a monthly basis. In 1972, the income test was removed, and eligibility was put on an individual "need analysis" basis. This gave rise to substantial confusion, and in 1974, the Act was amended to assume need for interest benefit purposes for students whose family incomes were below $15,000 and who were borrowing no more than $2,000. The 1974 amendments eased the paper problem, and improved access to interest subsidy and, as a direct result, access to loans. But the $15,000 level of need has become increasingly less realistic as prices have risen and the value of the dollar declined. The Committee has made two changes in the interest subsidy eligibility system. First, that provision of existing law which allows loans to be made up to $2,500, but only permits, in some cases, interest subsidies to be paid on the first $2,000, was removed. This amendment means that if a student is eligible for interest benefits by virtue of his family income, he is eligible whatever may be the amount of the loan.

The second amendment was an increase in the adjusted family income level at which eligibility for interest benefits is assumed without individual need analysis. For loans made to pay for educational costs for periods of enrollment beginning on or after the beginning of fiscal year 1977, the family income level for automatic eligibility will be $20,000. For periods of enrollment beginning in subsequent fiscal years, the eligibility level will be $25,000.

The Congress has long been aware of the need to raise benefit levels to compensate for inflation. We have approved annual increases in Social Security, SSI, and child nutrition benefits. We approved adjustments twice each year for Food Stamps. Now the Congress must provide some minimal level of protection for the eligibility for higher education aid from the ravages of inflation. Between school year 1964–65 and school year 1974–75, tuition and fees charged by public institutions rose by 98.4 percent while those charged by nonpublic institutions surged by 118.8 percent. The medium family income in current dollars rose by only 95.4 dollars between 1964 and 1974, falling behind the rate of increase in public tuition and fees by 3 percent and being outstripped by nonpublic tuition and fees increases by 23.4 percent. We should also be very aware that between 1967 and March of 1976 the purchasing power of a dollar declined by 40.3 percent. The consumer price index during that same period rose by 67.5 percent. To keep pace with that rate of inflation, the interest subsidy eligibility level should have risen from $15,000 to $25,025.

V. *Default Prevention.*—One of the root causes for defaults has been in the borrower's lack of clear perception of a loan as a loan, just like any other loan. Too often, a loan has been a "part of the aid package", and the borrower either does not know that he has incurred a debt, or does not take the debt seriously.

This kind of situation has arisen in cases where the nature of the loan was deliberately obscured by the lender—notably in the scandal situations involving certain institutions which engaged in high-pressure recruiting tactics, using the offer of "student assistance" in the form of a Guaranteed Loan, as a recruiting device. Other variations on the technique range from advising students they were taking a loan, but intimating that "we don't expect you to pay it back. The government will handle it for you.", to less culpable but equally damaging situations where a lender is simply careless or a student simply naive.

The Committee does not believe that students are, as a class, out to rob their government or default on their loans. Most of the misunderstanding is just that, and much of what the bill seeks to do is to remove the occasions for honest misunderstanding.

Among the provisions intended for this purpose are those which:

> Require loan proceeds to be paid in checks, which the student must endorse, and which are accompanied by a clear statement that the student understands the terms and obligations of his loan;
>
> Require the use of the collection proceeds retained by the States to provide better pre-claim assistance;
>
> Permit multiple disbursement of loan proceeds, on a voluntary basis, for all loans, and mandate multiple disbursement for loans to freshmen in excess of $1,500;
>
> Require that schools keep lenders advised of the names and addresses of students when the students leave school.

Among the other provisions of the bill intended to cope with the default problem are:

> A one-year moratorium on repayment, with the mutual consent of the lender and the student, in cases where the student is seeking work and is unable to find it; and
>
> Provisions allowing some flexibility in repayment terms. Present law mandates a repayment of no less than $30 per month. While the bill does not authorize and the Committee does not recommend, longer payout periods, the bill does permit that this minimum temporarily can be waived in cases where the borrower and the lender agree.

VI. *Improved Data Collection.*—In the long run, perhaps one of the most important amendments in this legislation is a provision which will require the Commissioner and all state guarantee agencies to maintain and report loan volume and default data by lender type within each state. Although patterns have emerged which suggest that default problems tend to be greater in one or another of these circumstances, the Office of Education's record keeping system does not lend itself to precise and definitive data on this matter.

This amendment will require all insurers to report precisely what type of lenders are responsible for what portions of their loan volume. At such future time when the Committee again will address crucial issues in the Guaranteed Student Loan Program, this amendment will assure the availability of useful data which is now lacking.

VII. *The Special Allowance.*—U r the terms of the Emergency Insured Student Loan Act of 19 pecial allowance is paid to each lender during the life of each lo whether or not the loan is otherwise eligible for interest subsidy.

The allowance, which is established quarterly by the Secretary of Health, Education, and Welfare, after appropriate consultation, cannot be more than 3 percent. There is no statutory floor, but the allowance has gone as low as three-quarters of one percent, and has gone as high as the three percent ceiling.

The two problems most frequently voiced, in addition to the unsurprising views that the ceiling is too low, have dealt with HEW's tardiness in setting the allowance for each quarter, and in paying special allowances to lenders. The special allowance is paid for each calender quarter, after the close of such quarter, and it is usually considerably into the next quarter before the wheels of consultation and the rituals of "signing-off" are concluded, and the lender knows what his allowance was for the quarter which ended some time ago.

This bill removes the element of bureaucratic delay in setting the allowance figure by tying it to the level of interest paid on 91-day Treasury bills, so that the total of the allowance and the 7percent interest rate will, in effect, float up and down with the rate paid on those 91-day bills. The allowance cannot be below 1 percent or exceed 5 percent. This is an indicator with which lenders are familiar. It is a market rate, relatively unsusceptible to manipulation, and the lender need only check with his financial page to know what the rate is for the quarter which has just ended. While the allowance check need not be mailed out on the first day of the next quarter the lender will know what he is entitled to get. Certainty, like time, is a very valuable commodity to bankers.

OE's record in paying special allowances in a timely manner, even after the rate has been set, is not encouraging. This bill provides that when the allowance is not paid within 30 days after the Commissioner has received a timely, accurate and complete request for payment, he shall pay a penalty to the lender equal to the daily interest accruing on the allowance and interest benefits due the lender.

VIII. *Bankruptcy.*—The Committee adopted an amendment which would have the effect of preventing the discharge of student loans through a bankruptcy proceeding if the bankruptcy petition were filed before the loan has been in repayment for five years. The amendment was adopted in the light of testimony that the bankruptcy rate involving student loans has increased significantly in the last several years and that in some areas of the country students are being counseled on filing for bankruptcy to discharge their obligation to repay guaranteed student loans.

The Committee notes that in most circumstances a student may leave school with several thousand dollars in student loans and no

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assets, thereby making the student technically eligible to declare bankruptcy. The amendment, by waiting five years, would offer a more realistic view on the student's ability to repay a student loan.

The adopted amendment does include language which permits loans to be discharged in bankruptcy in cases where exceptional circumstances exist. The decision in these cases would be up to the bankruptcy referee.

IX. *Effective Dates.*—The Committee bill continues existing law until October 1, 1976, without change. The modifications in present law incorporated in the bill would generally become effective on October 1, 1976. This, of course, provides sufficient leadtime for students, lenders, institutions, state agencies and others to learn about and adapt to the changes in the program.

Some of the bill's provisions would not become effective until October 1, 1977. These require authorizations for appropriations for advances to state guarantee agencies and for the payment of an administrative cost allowance to state guarantee agencies. In both cases the delay should cause no problems for state guarantee agencies presently operating, and the year's delay will not hamper states which desire to establish guarantee agencies. The amendments to the method of computing the special allowance paid to holders of student loans would also go into effect on October 1, 1977.

The Committee amendment provides that changes which affect student loans will be equally applicable to outstanding loans as well as new loans. However, some of the changes in law that are proposed in the Committee amendment are only applicable to new loans made on or after October 1, 1976. These changes relate to the maximum amount that a student is permitted to borrow under the program and a requirement that new loans may only be made to students who agree to notify the holder of the loan of any change of address. In addition, new provisions of law relating to States and institutions of higher education which are lenders in the program are applicable to loans made to cover the costs of education for enrollment periods beginning after October 1, 1976.

Changes in the amount of Federal reinsurance will take effect with regard to payments made to the State or nonprofit agencies after October 1, 1976.

Oversight

Twelve days of oversight hearings were held on the Guaranteed Student Loan Program during the 93rd Congress, and a substantial part of the hearings during this Congress were also devoted to that subject, though not in a formal oversight framework. In addition, the Committee on Government Operations and the General Accounting Office have examined this program. Although no formal recommendations were filed with the Committee on Education and Labor by the Committee on Government Operations, the problems on which that Committee concentrated—notably the abuse of the program by school lenders and school-related lenders are among those which this bill seeks to remedy.

Inflationary Impact

The rules of the House require that each Committee Report contain a statement of the bill's "inflationary impact on prices and costs in the operation of the national economy."

If examined simply in terms of Federal outlays, the Committee believes that this bill will, over the next five years, have a net reduction effect on expenditures for default claims, somewhat but not wholly offset by increased outlays for reinsurance payments and administrative costs to states and by interest benefits and special allowance payments to lenders.

Looked at in those terms, the total Federal outlays for the operation of the program will be something like $500 million in FY 1977. This amounts to something like three one-hundredths of one percent of the Gross National Product, estimated by annualizing the GNP rate for the first quarter of 1976. The Committee believes that this figure would not have a serious inflationary impact.

The real inflationary impact of any educational loan program has to be examined in terms of the total increase or decrease in the amount of educational borrowing that will be created by these amendments and the net effect those increases or decreases will have on educational price structures.

The bill works both ways. On the one hand, the raise in the income levels for interest subsidy eligibility will mean that some students who cannot now obtain guaranteed loans will be able to do so. The increase in aggregate indebtedness levels for graduate and professional students will also provide a small increase in the total amount lent. On the other hand, the limits which the bill places on institutional lending, and the operation of Section 109(d) of H.R. 12851, placing some brake on the cost-inflationary effect of the availability of student aid funds should help to keep total borrowing from continuing to climb. Taking both effects together, the Committee believes that the borrowing undertaken under the Guaranteed Student Loan Program will probably remain at or very near to the present annual $1.2 billion dollar mark, and that the amendments will not add to the inflationary pressures now operating on educational costs.

Cost Estimate

The Rules of the House require that the Committee prepare and publish in its report its own cost estimate of the bill and a cost estimate prepared by the Congressional Budget Office. The following is the cost estimate submitted by the Congressional Budget Office which the Committee accepts as reflecting the cost of H.R. 14070 as amended, with certain exceptions discussed below.

Congress of the United States,
Congressional Budget Office,
Washingon, D.C., June 7, 1976.

Hon. Carl D. Perkins,
Chairman, Committee on Education and Labor,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 14070 Guaranteed Student Loan Amendments of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely yours,

ALICE M. RIVLIN,
Director.

Attachments.

JUNE 4, 1976.

CONGRESSIONAL BUDGET OFFICE AUTHORIZATION BILL COST ESTIMATE

1. Bill No.: H.R. 14070.
2. Bill title: Guaranteed Student Loan Amendments of 1976.
3. Purpose of bill: To extend and amend the Guaranteed Student Loan provisions of the Higher Education Act. The following provisions which affect costs will take effect in FY 77: 1) The income limit for subsidy eligibility will rise to $20,000 adjusted family income; 2) The annual loan limit remains at $2,500 except if a loan is made by a state loan program or an educational institution where it cannot exceed 50 percent of cost of attendance or if made by an institution to a freshman it cannot exceed $1,500 unless paid in installments; and 3) State Guarantee Agencies will be fully reinsured for default claims, except those with default rates over 7 percent, and will be permitted to retain 30 percent of their collections.

Additionally there are provisions to become effective at the start of FY 1978. They are: 1) The income limit is now raised to $25,000 adjusted family income; 2) the special allowance rate will now be the 91-day treasury bill rate less 3.5 percent; 3) A one percent administrative allowance will be paid to all State Guarantee Agencies on the total principal amount of insured loans; and 4) new advance provisions whereby State Guarantee Agencies receive early payment of a portion of the federal reinsurance obligation. This bill does not provide new budget authority.

4. Authorization levels and cost estimates:

[Dollar amounts in millions]

	Fiscal year—				
	1977	1978	1979	1980	1981
Total authorization level of H.R. 14070	$600	$866	$1,055	$1,220	$1,402
Subsidy and special allowance payments	420	620	806	972	1,157
Student loan insurance fund	180	190	192	190	186
Administrative allowance		11	12	13	14
Sec. 422 reserve fund		45	45	45	45
Total estimated outlays [1]	400	823	1,059	1,193	1,371
Subsidy and special allowance payments	315	570	760	931	1,111
Student loan insurance fund	72	184	229	191	188
Administrative allowance		11	12	13	14
Sec. 422 reserve fund		45	45	45	45

[1] Outlays calculated using spend-out rates provided by the Budget Office, U.S. Office of Education.

5. Basis for estimate: The major costs of this program are payments for interest subsidies for borrowers and incentive payments to lenders. Both the provision which extends subsidy eligibility to borrowers with higher family incomes over two years and the new mechanism which

links the special allowance to the 91-day treasury bill rate affect these payments. The following table shows the base volume under current law 1/, the new volume of loans as a result of the income limit provisions 2/, and the consequent subsidy and special allowance payments under the new rate provisions:

COMBINING BASE VOLUME WITH NEW VOLUME FROM CHANGE IN SUBSIDY INCOME LIMIT: FISCAL YEARS 1977–81

[Dollar amounts in millions]

	Fiscal year —				
	1977	1978	1979	1980	1981
Base volume, in-school/grace	$4,074	$4,363	$5,219	$6,042	$6,769
New volume outstanding, in-school/grace	338	1,029	1,803	1,939	2,084
Total volume, in-school/grace	4,412	5,392	7,022	7,981	8,853
Base volume, in-repayment	1,743	1,741	1,587	1,821	2,442
New volume outstanding, in-repayment				789	1,486
Total volume, in-repayment	1,743	1,741	1,587	2,610	3,928
Total volume, outstanding	6,155	7,133	8,609	10,591	12,781
Subsidy payments (at 7 percent of total in-school grace volume)	309	377	492	559	620
Special allowance rate[3] (percent)	1.8	3.4	3.65	(3.9)	(4.2)
Special allowance payments (rate times total volume outstanding)	111	243	314	413	537
Total, subsidies plus special allowance payments	420	620	806	972	1,157

[1] Projections for future year loan volumes in the guaranteed student loan program were calculated using a loan model (operated by the program) incorporating an assumption of 7.5-percent annual growth in average awards (based on growth in student charges). The results of this model are based on time-series analyses of historical program data.
[2] Based on CBO estimates of likelihood to borrow of newly eligible students.
[3] Becomes tied to T-bill rate of fiscal year 1978 and beyond. Projections for 91-day T-bill rates are consistent with CBO's Path C economic assumptions.

The second major cost component in this program is the insurance fund which covers net default claims (default obligations less collections) under the federal insurance and reinsurance provisions. The federal government presently reinsures 80 percent of State Guarantee Agencies claims but under H.R. 14070 will increase its obligations by 25 percent to fully reinsure all agencies except those with default rates over 7 percent (only two states with small programs are in this category). On the collections side a provision in H.R. 14070 allows state agencies to retain 30 percent of what they collect. The following table shows the estimated impact on insurance fund requirements of these new provisions. These estimates do not include the marginal effect on future year default obligations of raising the income limits.

IMPACT OF NEW PROVISIONS TO REINSURE STATES [1] AND ALLOW THEM TO RETAIN 30 PERCENT OF COLLECTIONS: FISCAL YEARS 1977–81

[Dollar amounts in millions]

	Fiscal year—				
	1977	1978	1979	1980	1981
Current law (reinsurance program):					
Obligations [2]	$74	$83	$93	$104	$117
Less collections [2]	8	10	12	15	18
Total	66	73	81	89	99
H.R. 14070 (reinsurance program):					
Obligations [3]	93	104	116	130	146
Less collections [4]	6	7	8	11	13
Total	87	97	108	119	133
Increase due to H.R. 14070 (total)	21	24	27	[illegible]	34
Estimates for student loan insurance fund requirements under current law (total)	159	166	165	160	152
Estimates for SLIF under H.R. 14070 (total)	180	190	192	190	186

[1] Except those with default rates over 7 percent.
[2] Estimates for fiscal years 1977 and 1978 are based on OE's preliminary proposed fiscal year 1978 budget. Fiscal years 1979–81 are CBO estimates of future year obligations and collections.
[3] New obligations equals 1.25 times obligations under current law to reinsure at 100 percent.
[4] New collections equals 0.7 times collections under current law.

The new advance provisions which would take effect in FY 1978 require an authorization level of $12.5 million (as in present law) plus a "sums such as necessary" clause for making advances to State Guarantee Agencies of $50,000 or 10 percent of loan paper which matures during the prior fiscal year. These advances will last three years for states with active loan programs and five years for those who just establish a program. OE has only recently begun to collect matured paper data from the Guarantee Agencies. Last years figures show about $400 million maturing from all states which would mean an advance of about $40 million would have been required this year had these new provisions been in effect. Since the level of matured paper is fairly constant in states with ongoing programs we estimate that about $40 million will be required for each of the years between FY 78–FY 81. Data is not available which allow accurate estimation of how many states will begin new programs but even for those who do their matured paper volume will remain small for several years. At the outside perhaps an additional $5 million would be required. These estimates for the new advance provisions are highly tentative.

The one percent administrative allowance provision which takes effect in FY 78 will cost between $11 and $14 million each year, roughly estimated. OGSL projections for new disbursements made by State Guarantee Agencies under current law range from $750 million in FY 78 to about $1 billion in FY 81. However, raising the subsidy income limit to $25,000 will add about $350 million in FY 78 to about $440 million in FY 81 in new disbursements through State Guarantee Agencies.

6. Cost comparison: Not available.
7. Previous CBO estimate: Not applicable.

8. Estimate prepared by: Richard Wabnick (225–4745).
9. Estimate approved by:

C. G. NUCKELS,
(For James L. Blum,
Assistant Director for Budget Analysis).

The Committee notes that three factors result in a significant increase in the costs associated with the program according to the projections of the Congressional Budget Office. First, the CBO projections indicate that there will be a substantial increase in borrowing by students over the next five years. Such an increase would of course result from more loans being made or larger loans or both.

The CBO projects an increase in total volume for the guaranteed loan program from $5.8 billions in fiscal year 1977 to $9.2 billions by fiscal year 1981. This would result in an increase in interest subsidy payments from $286 millions in fiscal year 1977 to $474 millions in fiscal year 1981.

The Committee bill makes one major change in the program which, as indicated in the CBO projection, could result in a substantial increase in costs of the program. This is the provision which increases the level of adjusted family income below which a student is not required to submit evidence of financial need in order to qualify for interest subsidy benefits. Current law sets this cutoff at $15,000. The bill would increase it to $20,000 in FY 1977 and $25,000 in FY 1978. The CBO estimates for the increased volume of loans generated by this change and resultant increase in expenditures for interest subsidy and special allowance payments are substantial. The Committe is not persuaded that this change in the program will result in an influx of new borrowers to the extent that by FY 1981 loans to borrowers in the $15,000 to $25,000 adjusted family income range will make up 28% of total program volume outstanding.

The CBO projection is based on the assumption that newly eligible borrowers will borrow with the same likelihood as those presently subsidized and have slightly larger loans. It may be argued that families with higher incomes will be more likely to borrow because they send their children to higher cost institutions and that such families are also more accustomed to financial substantial purchases through loans. On the other hand, however, students from higher income families will have greater family savings set aside to provide for educational expenses and greater assistance from current income to meet the costs of postsecondary education.

The CBO cost estimate also includes estimates of the cost of changes in the method of computing the special allowance. Under the provisions of the bill beginning in FY 1978, the special allowance for a quarter will be computed by subtracting 3.5 from the average yield of 91-day Treasury Bills for the quarter. The special allowance could not exceed 5% or fall below 1% in any quarter.

The CBO cost figures result from a projection of rates for 91-day Treasury Bills from 6.9% in 1978 to 7.7% in FY 1981. These figures are substantially different than the projection included in the President's proposed Budget for FY 1977. The following table shows the CBO and Executive Budget rates as well as the resultant differences in costs derived from the two projections of Treasury Bill rates.

[Dollar amounts in millions]

	1978	1979	1980	1981
CBO special allowance rate (percent)	3.4	3.65	3.9	4.2
CBO special allowance payments	$243	$314	$413	$537
Total cost special allowance and interest subsidy	$620	$806	$972	$1,157
Administration special allowance projection (percent)	2.0	2.0	[illegible]	1.5
Administration special allowance payments	$413	$172	[illegible]	$192
Total program cost special allowance and interest subsidy	$520	$664	$718	$812

Section-By-Section Analysis

The Committee Amendment amends part B of title IV of the Higher Education Act to read as follows. Except where otherwise specified, references herein are to sections of part B.

Section 421. Statement of purpose and appropriations authorized

Subsection (b) of this section is amended to reflect the deletion in subsequent amendments of the old administrative cost allowance. It is also amended to authorize the appropriation of such sums as may be necessary to pay the new advances provided for under the new subsection (c), and to pay State guarantee agencies a new administrative cost allowance under section 428(b) (3).

A new subsection (c) is added to this section which requires the Commissioner to develop and carry out a plan to encourage States which have not done so to establish a State guarantee agency which can be covered by an agreement under section 428(b). Within ninety days after the enactment of these amendments the Commissioner is required to submit to the Congress a description of the plan he has developed and a timetable for its execution.

Before June 30, 1977, the Commissioner must submit to Congress a report which (1) describes the activities which have been carried out under the plan, (2) a description of the plan, if any, of each state to establish a program under section 428(b), or presentation of the reasons no plan is being actively considered by States where that is the case, and (3) includes his recommendations for changes which would encourage States to adopt such programs.

Section 422. Advances to reserve funds of State and nonprofit private loan insurance programs

The present provisions of this section remain unchanged, but an entirely new program for advances is appended.

This new program, in effect, provides that a portion of the Federal payments on account of its guarantee obligation under section 428(c) shall be made in advance rather than in arrears. Under paragraph (1) the Commissioner is directed to make advances to each State and private nonprofit agency with which he has a guarantee agreement under section 428(c) to be used by them for making payments under their insurance programs.

The amount advanced to each agency will be whichever is greater (1) $50,000 or (2) 10 per cent of the principal of the guaranteed loans whose repayment period began during the preceding fiscal year. However, the amount so determined is to be reduced by the amount of any advances received under this subsection at an earlier date and the amount of the unspent balance of advances made under present law.

The unspent balances of advances made to an agency is defined to be a portion of the balance in the agency's reserve fund which bears the same ratio to the full balance as the Federal advances received and retained by such agency under subsection (a) bears to the aggregate of all past contributions to such reserve account from all sources (other than earnings of the account) since it agreed to participate in the program.

The earnings from the investment of advances, if any, must be used by the insurer to make payments under its insurance obligation.

Repayment of advances made to agencies under this section will not be required until the aggregate advances (plus accrued interest) exceeds 20 per cent of the agencies' outstanding guarantees. An agency's outstanding guarantees are defined to be the differences between the total guarantees made by the agency since it agreed to participate in the program and the total guaranteed loans which have been fully repaid. Excess advances are paid over to the Commissioner for deposit in the student loan insurance fund.

In the case of an agency which has in effect a State insured loan program on the effective date advances will be made as requested by the agency (but after September 30, 1977), and on the same day of each of the two succeeding years. In the case of an agency which is not carrying on such a program on that date, advances will be made on the date requested (after such an agreement is entered into) and on the same day of each of the four succeeding years.

If a State has no student loan insurance program covered by an agreement under section 428(a) and consultations with the Governor show there is no likelihood of the State's adopting such a program, the Commissioner may make advances to a private nonprofit institution or organization with which he has an agreement under section 428(c) in the same manner and under the same conditions as he makes advances to State agencies, except that in order to qualify the private nonprofit institution or organization must—

(1) establish an office in the State with enough staff to handle inquiries, encourage lender participation, and make visits to the major lenders in the State;

(2) agree that it will not deny insurance on loans to any student because of the school he chooses or his lack of need; and

(3) certify it is not an educational institution and that it isn't affiliated with an educational institution.

Section 423. Effects of adequate non-Federal programs

This section is not directly amended.

Section 424. Scope and duration of Federal loan insurance program

This section is amended to extend the program through fiscal year 1980. The principal amount of new loans may not exceed $2,000,000,000 for the interim period between July 1 and September 1, 1976, and for each of the succeeding fiscal years.

Section 425. Limitations on individual Federally insured loans and on Federal loan insurance

Subsection (a) of this section is substantially revised so as to establish new loan limits for students. Under present law, the annual loan limit is $2,500. Under the amendment the annual loan limits would be $2,500 for undergraduates and $5,000 for graduate or professional students, except that if the loan is made to an undergraduate under a State loan program or by an educational institution it may not exceed $2,500 or 50 per cent of the estimated cost of attendance, and where a loan is made by an educational institution to a student for his first year, the loan may exceed $1,500 only if it is paid in installments. Exceptions in present law for high cost programs are retained. The aggregate limit for insured loans remains $7,500 for undergraduates, but is increased from ten to fifteen thousand dollars for graduate and professional students.

Section 426. Sources of funds

No change is made by this section.

Section 427. Eligibility of student borrowers and terms of Federally insured student loans

This section specifies several additional provisions which must be in student loans if they are to qualify for insurance by the Commissioner.

One new provision requires the student borrower to keep the holder of his loan informed of his current address.

Under another of these new requirements, a lender and a borrower are permitted to agree to a repayment period which begins earlier, or is of shorter duration, than required by this section, but where a default occurs in repayments made under such schedule, the lender may not seek reimbursement until he has offered the borrower an alternative repayment schedule meeting the requirements of the normal repayment schedule and the borrower refuses to agree to the terms of such alternative repayment schedule.

Another change provides that the repayment period may be suspended during a single period of unemployment if both lender and borrower agree, but only for a period of one year or less.

Yet another new provision, applicable only to loans made after October 1, 1976, is one under which the borrower must contact the holder of his loan within four months after leaving school so as to negotiate the terms for repayment.

A change is also made requiring that loans be disbursed by a check requiring the endorsement of the student, and that the student must sign, prior to its disbursement, a notice stating that he accepts the obligation to repay and setting forth the substance of the provisions of law governing the terms and conditions of employment.

In present law, subsection (c) of this section provides that the minimum annual repayment on a borrower's uninsured loan will be $360. An amendment to this provision would permit a lesser amount if the parties agree.

Section 428. Federal payments to reduce student interest costs

At present, an interest subsidy may be paid on account of a loan to a student if his adjusted family income is less than $15,000, and the loan, when added to other loans to which the part applies, does not exceed $2,000 or if it does exceed $2,000, the school has provided the lender with a statement recommending the amount of the excess.

An interest subsidy may also be paid where the student's adjusted family income exceeds $15,000 and the school has supplied the lender with a statement evidencing a determination of need and recommending a loan in the amount of the need.

This amendment would change the $15,000 figure to $20,000 and would remove the provisions which require an institutional statement for loans over $2,000 if the student's adjusted family income is below the specified figure. This figure is changed by section 4 of the bill to $25,000 for periods after October 1, 1977.

An obsolete provision of present law, paragraph (3) (B), is deleted. It provided an administrative cost allowance in States whose usury laws prohibited paying 7 per cent interest.

Paragraph (5) of subsection (a) is amended to extend until October 1, 1980, the period during which loans may be made which will qualify for the interest subsidy. The period applicable with respect to loans to enable a student to continue his education after receiving a prior loan is extended to October 1, 1984.

Under the amendment, three new paragraphs are added.

Under the first of these, where the proceeds of the loan are to be paid in increments over the period of enrollment for which the loan is made (but not more than a year), interest (and special allowances) will be computed as if the entire loan was paid in the first increment. Also, for purposes of determining whether the interest rate exceeds the maximum limit, the entire loan will be treated as having been paid on the date the first increment was paid. The new provision will apply only where the loans are paid in installments based on the need of the student over the course of the enrollment period.

The second of the new requirements provides that where the loan is made to a student attending a school in another country, the statements required from institutions under paragraph (1) will be provided by the Commissioner where he insured the loan, by the State where it made the loan, or by the insurer where the loan is insured by a State or a private nonprofit institution or organization.

Under the third new requirement, the institution which certified a student's eligibility for a loan must notify the lender (or, if unknown, the insurer) that the student is no longer in attendance within 60 days after he graduates or withdraws from school or fails to enroll for a subsequent term. The notification must show the student's last known date of attendance, and his last known address.

Subsection (b) of section 428 of present law sets forth the requirements to be met by student loan insurance programs carried on by States or nonprofit private institutions or organizations if they are to qualify for the interest subsidy. The amendment makes a number of substantial changes in these requirements.

The first change, and an important one, is a revision of paragraph (1)(A) which, at present, does not permit insurance of loans in excess of $2,500 in the case of undergraduate students (with exceptions for certain special cases which are retained).

Under the revision, the annual loan limits would be $2,500 for undergraduates and $5,000 for graduate or professional students, except that if the loan is made to an undergraduate student under a State loan program or by an educational institution it may not exceed $2,500 or one-half the cost of attendance, and, if the loan is made by an educational institution for his first academic year, the loan may exceed $1,500 only if it is paid in installments.

For graduate or professional students, the limit is $5,000. Cost of attendance will be determined in the manner provided in section

428(a)(2)(C)(i) for determining whether a Federally insured loan qualifies for an interest subsidy.

Under present law, the aggregate loans outstanding at one time may not exceed $7,500 for an undergraduate student and $10,000 for a graduate student. As amended, the limit remains $7,500 for undergraduate students, but is increased to $15,000 for graduate or professional students.

The repayment period for these loans normally must be not less than five years, or more than ten, and may not begin earlier than nine months or later than one year after the borrower leaves school. The amendment provides, as an exception, that the borrower and the lender may, after the student leaves school, agree on a repayment schedule which begins earlier, or is of shorter duration, than the normal requirement. However, the lender may not seek reimbursement on account of a default in payments under the revised schedule until he has offered the borrower an alternative repayment schedule meeting the normal requirements, and the borrower has declined.

There is a minimum repayment provision for these programs similar to that in the program for Federally insured loans and here, as there, authority is given for a lesser amount if the borrower and lender agree.

Here, as in the case of Federal insurance, the obligation to repay is suspended for a single one-year period during which the borrower is unemployed.

Another new requirement imposes a requirement that the educational institution attended by the borrower be notified of the insurance and the name of the lender, either by notification directly by the insurer or lender or by requiring the lender to make payment of the loan through the institution.

Under the new provisions, the loans must be disbursed by a check requiring the student's endorsement, and the student must have signed a notice that such endorsement constitutes acceptance of an obligation to repay the loan and setting forth the terms and conditions of repayment.

In the case of loans made after the enactment of the Act, the student must be required, within four months after leaving school, to contact the holder of the loan to negotiate terms of his repayment obligation.

Similarly, the borrower must be required to notify the holder of his loan of any change of address.

The amendment inserts a new paragraph at the end of subsection (b) which contains a provision for reimbursing the agency carrying on the guaranteed student loan insurance program for a portion of the administrative costs incurred by it. The payment may not exceed 1 per cent of the total amount of loans insured, and at least a quarter of the payment must be used to provide field service for eligible lenders or to promote commercial lender participation through guarantor services other than the insuring, reimbursing, or collecting of loans. Payments under this provision shall be made at such time (but at least quarterly) and in such manner as the Commissioner may prescribe.

Under subsection (c) of section 428, the Commissioner enters into guarantee agreements with the State and nonprofit private institutions and organizations with which he has agreements under subsection (b), under which he agrees to reimburse them for a portion of the amount they expend paying off their insurance obligations. The portion to be reimbursed is 80 percent under the present law. Under the amendment, the reimbursement rate is 100 percent, except that after a State's "default rate" for the year reaches 7 percent, the reimbursement rate will be 90 percent. For the first five years of operation of a new program, the reimbursement rate will be 100 per centum.

Under present law, only payments with respect to losses of principal are considered but. under the amendment, losses of accrued interest are also included.

Under the amendment, the guarantee agreement must include provisions for adequate and timely assistance by the parties to the agreement to States and lenders before the student loan goes into default.

The guarantee agreement will be required to provide assurance that payments under the agreement will be deposited in or credited to the accounts maintained for purposes of section 422(c), the new provision for advances.

The provision in subparagraph (E) of present law which permits the guarantee agreement to include other provisions has been dropped.

Under present law, where payments are made by a borrower on a loan with respect to which the Commissioner has made a payment under his guarantee agreement, the Commissioner receives his equitable share of the payments. The amendment in paragraph (6) specifies what constitutes the Commissioner's equitable share of such payments. That share will be the amount remaining after deducting—

(1) the percentage by which the guarantee payments fell short of 100 per cent, and

(2) that portion of the costs of collection which has been reimbursed under the new section 428(b)(3) or the costs of default prevention, but the amount deducted may not exceed 30 per cent. The costs of collection or default prevention are spelled out in detail and are only those directly related to these two activities.

A new subsection (e) is added at the end of section 428. Under this subsection, where there is no State student loan insurance program covered by an agreement with the Commissioner under subsection (b) of this section, the Commissioner must consider and act upon any application submitted by a nonprofit private institution or organization seeking an agreement under both subsections (b) and (c) for a student loan insurance program for such State. The Commissioner must act on the application within 90 days and immediately notify the Senate Labor and Public Welfare Committee and the House Committee on Education and Labor if he denies the application.

Section 429. Certificate of Federal loan insurance—Effective date of insurance

The provisions of this section in the present law are all retained in the amendment, but an additional provision is added. The new provision is one under which the Commissioner is directed to require each institution which certifies the borrower's eligibility to be advised of the insurance and the name of the lender. The Commissioner may satisfy this provision by requiring lenders to forward checks for loans directly to the borrower's educational institution for delivery to the borrower.

Section 430. Default of student under Federal loan insurance program

A change made by the amendment in this section is one which extends the Commissioner's insurance liability to interest accrued to the date of payment. Provision is also made for use of private collection agencies.

Section 431. Insurance fund

The only change made in this subsection (other than a minor conforming change) would limit the authority of the Commissioner to borrow from the Treasury to such amounts as do not exceed limits contained in appropriation Acts.

Section 432. Legal powers and responsibilities

This section retains its present provisions unchanged, but new data-gathering requirements are added to it. This new provision requires the Commissioner and all insurers under part B to collect and accumulate all data relating to loan volume insured and defaults reimbursed or default rates. This requirement applies to loans insured after October 1, 1976 or earlier if the necessary data is retrievable. The data will be accumulated separately for the various categories of lenders.

The Commissioner will collect the data and will publish at least quarterly a report showing loan volume and default data for each category of lender. These reports will be separate for each insurer, and shall be separate for each State.

Section 433. Direct loans

This section, which provided direct loans for vocational school students, is dropped and a new section added in its place.

New Section 433. State and institutional lenders

Under subsection (a) of new section 433, a State or a State agency may not be a lender under the part unless it agrees not to make loans to more than one-half of the students at any educational institution who are not graduate or professional students. Under subsection (b) of the section an educational institution may not act as a lender under the part unless it agrees not to make loans to more than one-half of its students who are not graduate or professional students, and that it will not make a loan to a student (other than a graduate or professional student) to whom it has not previously made a loan until the student has provided it with a statement from a commercial lender that he has sought a loan from such lender, but was denied.

This new section becomes effective July 1, 1977.

Section 434. Participation of Federal credit unions

This section is unchanged.

Section 435. Definitions for reduced-interest student loan insurance program

The term "institutions of higher education" is amended to qualify schools which admit students who are not high school graduates, but are beyond the age of compulsory school attendance.

The definition of "eligible lender" is revised. Under existing law, the following are eligible lenders:

(1) institutions of higher education, vocational schools, and similar schools outside the United States;

(2) agencies and instrumentalities of the States;

(3) financial and credit institutions which are governmentally controlled, insurance companies, and pension funds.

The amendment defines "eligible lender" in greater detail, and with some limitations. Under the amendment, eligible lenders are the following:

(1) National or State banks, mutual savings banks, savings and loan associations, and credit unions, but if making insured students loans is not their primary consumer credit function.

(2) Pension funds, as defined in the Employees Retirement Income Security Act.

(3) Insurance companies.

(4) Any State and any State agency or private nonprofit agency which has signed an agreement under section 433(a).

(5) Sallie Mae, but only for purposes of purchasing and holding insured student loans.

(6) Educational institutions which have signed an agreement under section 433(b), but only if they employ one person as a full-time financial aid officer, are not a home-study school, and meet additional criteria established by the Commissioner.

This section also adds a definition of the terms "due deligence".

Section 436. District of Columbia student loan insurance program

Save for purely technical amendments, this section is unchanged.

Section 437. Repayment by the Commissioner of loans of deceased or disabled borrowers

This section is amended to provide that where a student loan is discharged in bankruptcy the Commissioner will pay the amount owed.

Section 438. Eligibility of institutions

This section is dropped, since other legislation would apply its provisions to other student assistance programs.

New section 438. Special allowances

At present the Emergency Insured Student Loan Act of 1969 provides for the payment of a special allowance when the Secretary of HEW determines that interest rates on insured student loans are so low as to impede the carrying out of the insured student loan program, or as to be inequitable, considered in light of current economic conditions and the relevant money market.

Under that Act, the Secretary of HEW sets a special allowance for the preceding calendar quarter based on the average unpaid balance of disbursed principal of all insured student loans held by the lender. The maximum allowance may not exceed 3 percent per year.

Under this section, which takes the place of the old law, the payment of the special allowance will be automatic and will be computed according to the criteria in the Act. These criteria provide that the special allowance will be 3.5 percent less than the bond equivalent rate for 90 day treasury bills sold during the 3-month period, rounded upward to the nearest one-eighth of 1 percent. However, the allowance may never exceed 5 percent or be less than 1 percent.

A new provision is added to encourage prompt payment of special allowances and student interest benefits under section 428(a). Under this provision, if payment is not made within 30 days after a request for payment which is accurate, timely, and complete, the special allowance is increased by the interest due on such payments.

Section 439. Student Loan Marketing Association

Except for a technical amendment, the only change made in this section is a provision permitting a security interest in insured student loans created on behalf of the Association or the lender to be perfected either by taking possession of the loans or by filing notice of such security interest in the manner provided by State law.

Section 439A. Five-year nondischargeability of certain loan debts

This section, which is entirely new, provides that a loan under this part may be released by a discharge in bankruptcy only if the discharge occurs more than five years after the beginning of the repayment period on the loan (excluding periods of suspension). Prior to that it may be released only if its payment from future income or other wealth would not impose an undue hardship on the debtor or his dependents. This section applies only to proceedings begun more than 30 days after the date of enactment.

Section 3 of the Bill. Extension of existing law

This section extends, until the end of fiscal year 1977, the special allowance provisions of the Emergency Insured Student Loan Act of 1969, and extends through the transition quarter the authority to insure loans and to make interest payments thereon under part B of title IV of the Higher Education Act of 1965. The effect of these extensions is to extend the existing provisions of law and the existing programs through September 30, 1976, without change.

Section 4 of the Bill. Repeal of Emergency Insured Student Loan Act

This section repeals the Emergency Insured Student Loan Act of 1969, effective October 1, 1977.

Section 5 of the Bill. Eligibility for interest payments

This section provides that on and after October 1, 1977, the adjusted family income which may be received without disqualifying a student for an interest subsidy is not to exceed $25,000 a year. As mentioned earlier, this figure will be $20,000 a year until that date.

Section 6 of the Bill. Effective dates

The revision of part B will become effective October 1, 1976, except that the provisions for advances under section 422(c), for administrative cost allowances under section 428(b)(3), and for changes in interest subsidies will become effective October 1, 1977.

Where a change made by the bill relates to student loans, it will apply both to outstanding loans or new loans, except that the changes listed specifically in the section will apply only to new loans.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PART B, TITLE IV OF THE HIGHER EDUCATION ACT OF 1965

PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

SEC. 421. (a) The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b), (3) to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C), and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C).

(b) For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest [and administrative cost allowances] on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs, [and]

[(4) there is authorized to be appropriated the sum of $12,500,000 for making advances after June 30, 1968, pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs.]

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to section 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(b)(3) to State and nonprofit private institutions and organizations with which the Commission has an agreement under section 428(b).

Sums appropriated under clauses (1), (2), [and] (4), *and* (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

(c) For purposes of carrying out this part—

(1) the Commissioner shall develop and execute a plan designed to encourage the establishment of a student loan insurance program by each State which does not have such a program covered by an agreement pursuant to section 428(b);

(2) the Commissioner shall make a report to the Congress within ninety days after the enactment of the Guaranteed Student Loan Amendments of 1976, containing a description of the plan developed according to paragraph (1) accompanied by a timetable for the execution of such plan; and

(3) the Commissioner shall make a report to the Congress before June 30, 1977, which shall include—

(A) a description of the activities the Commissioner and his designees have undertaken pursuant to paragraph (1),

(B) a description of such State's plans to establish a program meeting the requirements of section 428(b), or alternatively, a presentation of the reasons such a plan is not under its active consideration, and

(C) the Commissioner's recommendations to the Congress as to what changes in law, regulation, or policy would encourage the establishment of such a program in all States without such programs.

ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

SEC. 422. (a)(1) From the sums appropriated pursuant to clauses (3) and (4) of section 421(b), the Commissioner is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Commissioner may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirement of section 428(b)(1).

(2) No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of (A) the sum of (i) advances made under this section prior to July 1, 1968, (ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made, and (iii) the proceeds of earnings on advances made under this section, or (B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

(3) Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Commissioner determines will best carry out the purposes of this section. Advances made by the Commissioner under this subsection shall be repaid within such period as the Commissioner may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) (1) The total of the advances to any State prior to July 1, 1968, pursuant to subsection (a) may not exceed an amount which bears the same ratio to 2½ per centum of $700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two, inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations prior to July 1, 1968, pursuant to subsection (a) may be in such amounts as the Commissioner determines will best achieve the purposes for which they are made, except that the sum of (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced to that State pursuant to the first two sentences of this subsection.

(2) The total of the advances from the sums appropriated pursuant to clause (4) of section 421(b) (A) to nonprofit private institutions and organizations for the benefit of students in any State and (B) to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged eighteen to twenty-two, inclusive, bears to the population of all the States aged eighteen to twenty-two, inclusive, but such advances may otherwise be in such amounts as the Commissioner determines will best achieve the purposes for which they are made. The amount available, however, for advances to any State shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(3) For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(c)(1) From sums appropriated pursuant to section 421(b)(4)(B), the Commissioner shall advance to each State which has an agreement with the Commissioner under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2)(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to the greater of (i) $50,000, or (ii) 10 per centum of the principal amount insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

(C) For purposes of subparagraph (B) the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve fund from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

(3) The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4)(A) No repayment of any advances made pursuant to this subsection shall be required until such time as the sum of the advances under this subsection exceeds 20 per centum of the State's outstanding insurance obligation determined in accordance with subparagraph (B) of this paragraph.

(B) For purposes of this paragraph, a State's outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the State since it entered into an agreement pursuant to section 428(b), the total principal amount of loans insured by such State which have been fully repaid by the borrower, the State itself, or the Commissioner, and loans which have been canceled.

(C) At such time as advances pursuant to this subsection reach the level indicated in subparagraph (A) of this paragraph, the amount of any excess shall be paid over to the Commissioner in a lump sum at the beginning of each fiscal year for deposit in the fund established by section 431.

(5) *Advances pursuant to this subsection shall be made to a State—*

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the effective date of this subsection, upon such date as such State may request. but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after the effective date of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

(6) *(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive office of the State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he had made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.*

(B) The Commissioner may enter into an agreement with a private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lending institutions within the State,

(ii) agree that its insurance will not be denied any student because of his choice of eligible education institution or the student's lack of need, and

(iii) certifies that it is neither an educational institution, nor has any substantial affiliation with an educational institution.

EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

SEC. 423. (a) Except as provided in subsection (b), the Commissioner shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

(b) The Commissioner may issue certificates of insurance under section 429 to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an ad-

vance under section 422 for the benefit of students in such State), or

(2) for insurance of all of the loans made to student borrowers by a lender who satisfies the Commissioner that, by reason of the residence of such borrowers, he will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans he intends to make to such student borrowers.

SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,400,000,000 for the fiscal year ending June 30, 1972, $1,600,000,000 for the fiscal year June 30, 1973, $1,800,000,000 for the fiscal year ending June 30, 1974, and $2,000,000,000 [each for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976] *each for the fiscal years ending June 30, 1975*[.], *and 1976, and $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1980.*[1] Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after June 30, [1979.] *1984.*

(b) The Commissioner may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

[SEC. 425. (a) The total of the loans made to a student in any academic year or its equivalent (as determined under regulations of the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $2,500, except in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $10,000 in the case of any graduate or professional student (as defined

[1] Effective on the date of enactment of this bill, and until the effective date of section 2 of the bill, (as represented above) this section would be amended to extend the authority to make loans through the transition quarter by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof the following: "each for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976".

by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b) made to such person before he became a graduate or professional student). The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.]

SEC. 425. (a) (1) The total of loans made to a student in any academic year or its equivalent (as determined by the Commisioner) which may be covered by Federal loan insurance under this part may not exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except that—

(A) in the case of a loan to a student who has not successfully completed a program of undergraduate education which is made under a State student loan program described in section 435(g) (1)(D) or which is made or originated (as defined in section 433(b)(2)) by an eligible institution, the loan may not exceed the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 428(a)(2)(C)(i)),

(B) in the case of a loan made or originated (as defined in section 433(b)(2)) by an eligible institution which is made to a student for his first academic year of postsecondary education, the loan may exceed $1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(C) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(2) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b) made to such person before he became a graduate or professional student).

(b) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan, plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

SOURCES OF FUNDS

SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

SEC. 427. (a) A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if—

(1) made to a student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing there as determined by the institution, [and] (B) is carrying at least one-half of the normal full-time workload as determined by the institution, *and (C) has agreed to notify promptly the holder of the loan concerning any change of address*; and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid) nor more than ten years beginning not earlier than nine months nor later than one year after the date on which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, [except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Commissioner in effect at the time the loan is made.] *except—*

(i) as provided in clause (C) below,

(ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it.

(iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default

by the borrower, as may be authorized by regulations of the Commissioner in effect at the time the loan is made, and

(iv) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that such loan shall not be in default because of the student's failure to fulfill the requirements of such a repayment schedule until the lender offers to the borrower in writing an alternative repayment schedule which meets the requirements of this subparagraph, and the borrower has refused to agree to the terms of such alternative repayment schedule,

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an "eligible institution", (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, **[**or**]** (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under **[**title VIII of the Economic Opportunity Act of 1964,**]** *the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower and with the consent of the holder, during which the borrower is seeking and unable to find full-time employment*, and any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above,

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal,

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under this part, and that the lender will enter into such agreements with the Commissioner as may be necessary for the purposes of section 437,

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan, **[**and**]**

(G) provides, in the case of a loan made after October 1, 1976, that the borrower shall within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligations,

(H) provides that the funds borrowed by a student will be disbursed by check requiring the endorsement of such student, and that such student will sign, prior to such disbursement, a notice stating that endorsement constitutes acceptance by the student of the obligation to repay the loan and setting forth the substance of the provisions of law governing the terms and conditions of repayment, and

[(G)**]** *(I)* contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Commissioner pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Commissioner with respect to such loan.

(b) No maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 7 per centum per annum on the unpaid principal balance of the loan.

(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part**[**, or which are made by a State or the Commissioner under section 425(a)(1)(B) or 433, respectively, shall not be less than $360 or the balance of all of such loans (together with interest therein)**]** *shall not be less, unless the borrower and the lender otherwise agree, than $360 or the balance of all of such loans (together with interest thereon)*, whichever amount is less.

FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

SEC. 428. (a)(1) Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Commissioner under this part;

(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan [at the time of execution of the note or written agreement evidencing such loan] under circumstances described in paragraph (2).

(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by such institution), which—

(I) sets forth such student's estimated costs of attendance and

(II) sets forth such student's estimated financial assistance; and

(ii) meet the requirements of subparagraph (B).

(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

(i) is less than [$15,000, and—

[(I) the amount of such loan would not cause the total amount of the student's loans insured by the Commissioner under this part or by a State or nonprofit private institution or organization which has an agreement under subsection (b) to exceed $2,000 in any academic year, or its equivalent, or

[(II) the amount of such loan would cause the total amounts of the loans described in clause (I) of this subparagraph of that student to exceed $2,000 in any academic year or its equivalent, and the eligible institution has provided, with respect to the amount of such loans in excess of $2,000, the lender with a statement recommending the amount of such excess; or] *$20,000;* [1] *or*

(ii) is equal to or greater than [$15,000] *$20,000* [1] and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

(C) For the purposes of paragraph (1) and this paragraph—

(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such

[1] Effective October 1, 1977, this section is further amended to raise this $20,000 ceiling to $25,000.

student will receive under parts A, C, and E of this title, plus other scholarship, grant, or loan assistance;

(iii) the term "eligible institution" when used with respect to a student is the eligible institution at which the student has been accepted for enrollment or, in the case of a student who is in attendance at such an institution is in good standing (as determined by such institution);

(iv) the determination of need and the amount of a loan recommended by an eligible institution under subparagraph (B) (ii) [and the amount of loans in excess of $2,000 recommended by an eligible institution under subparagraph (B) (i) (II)] with respect to a student shall be determined by subtracting from the estimated cost of attendance at such institution the total of the expected family contribution with respect to such student (as determined by means other than one formulated by the Commissioner under subpart 1 of part A of this title) plus any other resources or student financial assistance reasonably available to such student.

(D) [In addition, the Commissioner shall pay an administrative cost allowance in the amount established by paragraph (3) (B) of this subsection with respect to loans to any student without regard to the borrower's need.] For the purposes of this paragraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of the execution of the note or written agreement evidencing the loan. Such regulations shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.

(3) [(A)] The portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection [(e)] *(b) (1) (M)* of this section or in section 427(a) (2) (C); but such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Commissioner the portion of interest which has been so determined [and the administrative cost allowance payable under this subsection]. The Commissioner shall pay this portion of the interest [and administrative cost allowance] to the holder of the loan on behalf of and for the account of the borrower at such times as may

be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

[(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b), (ii) a statute of such program to a rate which is less than 7 per centum per annum on the unpaid principal balance, and (iii) the Commissioner determines that section 428(d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then he may pay an adminisrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per annum (determined by the Commissioner) which shall not exceed 1 per centum of the unpaid principal balance of the loan.]

(4) Each holder of a loan with respect to which payments of interest [or of administrative cost allowances] are required to be made by the Commissioner shall submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan.

(5) The period referred to in subparagraph (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of [September 30, 1976] [1] *September 30, 1980*, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his educational program, such period shall end at the close of [June 30, 1979] *September 30, 1984*.

(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1958 *or part E of this title*.

(7) Nothing in this or any other Act shall be construed to prohibit or require unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(8) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which enters into a binding agreement with a student to make a loan—

(A) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

[1] Effective on the date of enactment of the bill and until the effective date of section 2 of the bill, this paragraph would be amended to extend the authority to make loans through the transition quarter by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1976".

(B) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,
the amount of the interest payment and the amount of any special allowance payment to be paid under section 438 shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan: Provided, that this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the course of the academic year.

(9) With respect to any loan for which a portion of the interest is payable under this section, in the case of a student attending an eligible institution which is located in other than a State, the determinations to be made (except determinations of good standing) and the statement to be provided by such institution under paragraph (2)(A)(i) and (2)(B)(ii) of this subsection shall be made and provided by (A) the Commissioner in the case of a loan described by paragraph (1)(A), (B) the State in the case of a loan described by paragraph (1)(B), or (C) the State or a nonprofit private institution or organization as the case may be, in the case of a loan described by paragraph (1)(C).

(10) The eligible institution which provided the statement required by paragraph (2)(A)(i) shall notify the eligible lender (or where the eligible lender is not known, the insurer of the loan) before a date which is sixty days after (A) the borrower's formal termination (whether by graduation or withdrawal) of enrollment, on at least half-time basis at such institution, or (B) the borrower's failure to enroll, on at least a half-time basis, in the first of any subsequent academic terms at such institution (as determined under regulations of the Commissioner), and shall provide the last date of attendance and the last known address of the borrower to such lender or insurer.

(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Commissioner determines that the student loan insurance program—

[(A) authorizes the insurance of not less than $1,000 nor more than $2,500, (except in those cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education) in loans to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall not at any time exceed $7,500 in the case of any student who has successfully completed a program of undergraduate education, and $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part made to such person before he became a graduate or professional student);]

(A) *authorizes the insurance of not less than $1,000 nor more than $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except that—*

(i) the program may not authorize the insurance of a loan which is made under a State student loan program described in section 435(g)(1)(D) or which is made by an eligible institution to a student, who has not successfully completed a program of undergraduate education in an amount in excess of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with section 428(a)(2)(C)(i)),

(ii) the program may not authorize the insurance of a loan in excess of $1,500 for an academic year which is made or originated (as defined in section 433(b)(2)) by an eligible institution and is made to a student for his first academic year of postsecondary education unless the loan is to be disbursed in two or more installments none of which exceeds one-half of the loan with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(iii) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b) made to such person before he became a graduate or professional student);

[(B)] (*C*) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Commissioner);

[(C)] (*D*) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subsection (e) of this section, the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan, may contain such provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Commissioner in effect at the time such note or written evidence was executed;

[(D)] (*E*) subject to paragraphs [(C) and (K)] (*D*) *and* (*L*) of this paragraph and except as provided by [subsection e] *subparagraph* (*M*) of this [section] *paragraph* provides that repayment of loans shall be in installments over a period of not less than five years nor more than ten years beginning not earlier than nine months nor later than one year after the student ceases to pursue a full-time course of study at an eligible institution. [except that if the program provides for the insurance of loans for part-time study at eligible institutions the program shall provide that such repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;] *except*

(*i*) *that if the program provides for the insurance of loans for part-time study at eligible institutions the program shall provide that such repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution; and*

(*ii*) *that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that such loan shall not be in default because of the student's failure to fulfill the requirements of such a repayment schedule until the lender offers to the borrower in writing an alternative repayment schedule which meets the requirements of this subparagraph and the borrower has refused to agree to the terms of such alternative repayment schedule;*

[(E)] (*F*) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower);

[(F)] (*G*) insures not less than 80 per centum of the unpaid principal of loans insured under the program;

[(G)] (*H*) does not provide for collection of an excessive insurance premium;

[(H)] (*I*) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a) (1) and (2) except in the case of loans made by an instrumentality of a State or eligible institution;

[(I)] (*J*) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

[(J)] (*K*) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under the supervision of a single State agency;

[(K)] (*L*) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are [(i)] insured under this part [or (ii) made by a State or the Commissioner under section 428(a) (1) (B) or 433, respectively] shall not be less than $360 or the balance of all such loans (together with interest thereon), whichever amount is less [; and], *unless the borrower and the lender otherwise agree;*

[(L)] (*M*) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, [or] (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under [title VIII of the Economic Opportunity Act of 1964.] *the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower and consent of the holder, during which the borrower is seeking and unable to find full-time employment;*

(N) provides that in the case of each loan insured by the program that the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

(O) provides that funds borrowed by a student are disbursed by check requiring the endorsement of such student, and that such student sign, prior to such disbursement, a notice stating that endorsement constitutes acceptance by the student of the obligation to repay the loan and setting forth the substance of the provisions of law governing the terms and conditions of repayment;

(P) provides, within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the

holder of his loan to negotiate the terms of his repayment obligations, and

(Q) requires the borrower to promptly notify the holder of the loan concerning any change of address.

(2) Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan;

(B) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Commissioner and the State or nonprofit private organization or institution, as the case may be; and

(C) provide for making such reports in such form and containing such information as the Commissioner may reasonably require to carry out his function under this part and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(3)(A) The Commissioner shall reimburse any State or any nonprofit private institution or organization with which he has an agreement under this subsection for a portion of the administrative expenses incurred by it in administering such program, not to exceed, for any fiscal year, 1 per centum of the total principal amount of loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. An amount equal to not less than one-fourth of any amount received under this paragraph shall be used by such State or institution or organization to provide field services for eligible lenders or to promote commercial lender participation through services other than the insuring, reimbursing, or collecting of loans under this part.

(B) Any reimbursements made by the Commissioner pursuant to this paragraph shall be made at such times and in such manner as the Commissioner may prescribe, except that such payments shall be made not less often than every calendar quarter.

(c)(1) The Commissioner may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Commissioner shall undertake to reimburse it, under such terms and conditions as he may establish, [in an amount equal to 80 per centum of the amount expended by it in discharge of its insurance obligation, incurred under its loan insurance program,] with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal [(other than interest added to principal)] *and accrued interest* of any insured loan with respect to which a portion of the interest (A) is payable by the Commissioner under subsection (a); or (B) would be payable under such subsection but for the borrower's lack of need. *Except as provided in paragraph (7), the amount to be paid a State or a nonprofit private institution or* *organization as reimbursement under this subsection shall be equal to 100 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program, except that to the extent, for any fiscal year, the amount of such reimbursement payments by the Commissioner under this paragraph is in excess of 7 per centum of the loans insured by it under such program which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection shall be equal to 90 per centum of the amount of such excess. For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans insured by it reduced by (A) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (B) the original principal amount of loans insured by it which have been fully repaid, and (C) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 427(a)(2)(B) or section 428(b)(1)(E) or such first installment need not be paid pursuant to section 427(a)(2)(C) or section 428(b)(1)(M) of this part.*

(2) The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, *including provisions for adequate and timely assistance by the parties to the agreement to States and lenders with respect to insured loans prior to default by the student borrower*, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program;

(B) shall provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to this subsection, the undertaking of the Commissioner under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Commissioner has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with [regulations prescribed by the Commissioner] *paragraph (6)*) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

[(E) may include such other provisions as may be necessary to promote the purposes of this part.]

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c).

(3) To the extent provided in regulations of the Commissioner, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

(4) For purposes of this subsection, the terms "insurance beneficiary" and "default" shall have the meanings assigned to them by section 430(e).

(5) In the case of any guaranty agreement entered into prior to September 1, 1969, with a State or nonprofit private institution or organization with which the Commissioner has in effect on that date an agreement pursuant to subsection (b) of this section, or section 9(b) of the National Vocational Student Loan Insurance Act of 1965, made prior to the date of enactment of this subsection, the Commissioner may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution, or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6)(A) For the purpose of paragraph (2)(D), the Commissioner's equitable share of payments made by the borrower pursuant to such paragraph shall be that portion of the payments remaining after the State or institution or organization with which the Commissioner has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the costs (as defined in subparagraph (B) of this paragraph) of collection of loans reimbursed pursuant to this subsection and the costs of default prevention, as so defined, to the extent such costs do not exceed 30 per centum of such payments.

(B) Costs of collection or default prevention which may be deducted pursuant to subparagraph (A) of this paragraph are (i) the salary of any employees whose primary function is the collection of defaulted loans which are insured under this part, or whose primary function is assisting or supervising lenders with regard to the collection of delinquent loans insured under this part, or whose primary function is providing clerical support for such functions, (ii) the costs of engaging the services of an attorney or any other person or firm for the purposes of locating or collecting from a delinquent or defaulted borrower under this part, (iii) telephone or postage costs which are directly related to the collecting of a delinquent or defaulted

loan insured under this part, and (iv) those billing, receipting, and accounting costs which are directly attributable to the collection of delinquent or defaulted loans which are insured under this part, and which are precisely identifiable and quantifiable by means other than percentage estimations or similar means of allocation.

(7) Notwithstanding the last sentence of paragraph (1), the amount to be paid to a State or nonprofit private institution or organization which is not, on the effective date of this paragraph, actively carrying on a student loan insurance program which is subject to a guaranty agreement under this subsection, but subsequent to such date begins to carry on such a program, shall be 100 per centum of the amount expended by it in discharge of its insurance obligation incurred under such program for the fiscal year in which it begins to carry on such program, and for each of the four succeeding fiscal years.

(d) No provision of any law of the United States (other than sections 427(a)(2)(D) and 427(b) of this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of 7 per centum per annum, and

(2) which is insured (A) by the United States under this part, or (B) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) If a nonprofit private institution or organization (1) applies to enter into an agreement with the Commissioner under subsection (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Commissioner does not have an agreement under subsection (b), and (2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii), the Commissioner shall consider and act upon such application within 90 days, and shall forthwith notify the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives of his actions, and of his reasons therefor in the event he refuses to enter into such agreements.

CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

SEC. 429. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Commissioner is authorized, in ac-

cordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Commissioner pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Commissioner may prescribe by or pursuant to regulation.

(4) In the case of each certificate of insurance issued, the Commissioner shall require that the eligible institution which provided the statement required by section 428(a)(2)(A), or which provided the information required from an institution as a condition to the student's receipt of a loan, is advised of such insurance and the name of the lender making the loan. The requirements of this paragraph may be satisfied by a regulation of the Commissioner requiring any lender to transmit any checks for the proceeds of a loan insured under this section directly to the eligible institution for delivery to the borrower.

(b) (1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Commissioner may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Commissioner, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Commissioner's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Commissioner and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Commissioner from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Commissioner in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or

payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Commissioner may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

(c) The Commissioner shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Commissioner. Such regulations may provide that such premiums shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Commissioner has made such payment on his own motion pursuant to section 430(a).

(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Commissioner.

(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Commissioner may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Commissioner may amend that certificate accordingly.

DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and interest *accrued to the date of payment by the Commissioner.*

(b) Upon payment by the Commissioner of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Commissioner on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. *The Commissioner may, in attempting to make recovery on such loans, contract with private collection agencies, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such agencies in assisting the Commissioner in making such recovery.*

(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Commissioner, or to preclude forbearance by the Commissioner in the enforcement of the insured obligation after payment on that insurance.

(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Commissioner, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)[(3)](*4*) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) As used in this section—

(1) the term "insurance beneficiary" means the insured or its authorized assignee in accordance with section 429(d); and

(2) the term "default" includes only such defaults as have existed for (A) one hundred and twenty days in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.

INSURANCE FUND

SEC. 431. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Commissioner for making payments in connection with the default of loans insured by him under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Commissioner as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Commissioner in connection with his operations under this part, *any excess advances under section 422(c)(4)(C)*, and any other moneys, property, or assets derived by the Commissioner from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Commissioner under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Commissioner under this part, or in connection with any guaranty agreement made under section 428(c), the Commissioner is authorized, *to the extent provided in advance by appropriations Acts*, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from such fund.

LEGAL POWERS AND RESPONSIBILITIES

SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections [507(b)] *509, 517, 547*, and 2679 of title 28 of the United States Code [and of section 316 of title 5].

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Commissioner determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Commissioner if he determines that modification is necessary to protect the financial interest of the United States;

(4) subject to the specific limitations in this part, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guarantee agreement under section 428(c); and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

(b) The Commissioner shall, with respect to the financial operations arising by reason of this part—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Commissioner, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c)(1) (A) For loans insured after October 1, 1976, or in the case of each insurer after such earlier date where the data required by this subsection remains retrievable, the Commissioner and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Commissioner may designate such additional subcategories within the categories specified in subparagraph (B) as he deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2)(A) The Commissioner shall collect data under this subsection from all insurers under this part and shall publish not less often than once every calendar quarter a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Commissioner, and where a insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) For purposes of clarity in the making of regulations and in all other communications, the Commissioner shall devise and publish unique names or designations for loans made by the lenders referred to in clause (i) and for loans made by the lenders referred to in clause (ii) of paagraph (1)(B) of this subsection, and such names shall be used in all reports or communications of any insurer or lender under this part.

[DIRECT LOANS

[SEC. 433. (a) The Commissioner may make a direct loan to any student who would be eligible for an insured loan for study at a vocational school under this part if (1) in the particular area in which the student resides, loans which are insurable under this Act are not available at the rate of interest prescribed by the Secretary pursuant to section 427(a)(2)(D) for such area, or (2) the particular student has been unable to obtain an insured loan at a rate of interest which does not exceed such rate prescribed by the Secretary.

[(b) Loans made under this section shall bear interest at the rate prescribed by the Secretary under section 427(a)(2)(D) for the area were the student resides, and shall be made on such other terms and conditions as the Commissioner shall prescribe, which shall conform as nearly as practicable to the terms and conditions of loans insured under this Act.

[(c) There is authorized to be appropriated the sum of $1,000,000 for the fiscal year ending June 30, 1969, and for each of the succeeding fiscal years ending prior to July 1, 1975, to carry out this section.]

STATE AND INSTITUTIONAL LENDERS

SEC. 433. (a) An agency of a State or a private nonprofit agency designated by a State may not act as an eligible lender under this part unless it has in effect an agreement with the Commissioner under which the lender agrees to make loans to no more than 50 per centum of the students in attendance at any eligible institution in the State who are not graduate or professional students (as defined in regulations of the Commissioner).

(b)(1) An eligible institution may not act as an eligible lender or originate loans under this part unless it has in effect an agreement with the Commissioner under which it agrees (A) to make loans to no more

than 50 per centum of the students in attendance at the institution who are not graduate or professional students (as defined in regulations of the Commissioner). or (B) that it will not make a loan to a student, other than a graduate or professional student as defined in regulations of the Commissioner, who has not previously received a loan from such institution until such student has provided the institution with a statement from an eligible lender (other than an eligible institution or a State or an agency of a State or a private nonprofit agency designated by a State) that the borrower sought a loan from it and was denied such loan.

(2) An eligible institution shall be deemed to have originated a loan for purposes of this subsection if it has had delegated to it by an eligible lender a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of a loan, such as interviewing the applicant for the loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms, obtaining necessary documentation, or verifying that the student is eligible for the loan.

(c) For purposes of this section, a loan is made or originated on the date of the first disbursement of any proceeds of the loan.

PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(C).

DEFINITIONS FOR REDUCED-INTEREST STUDENT LOAN INSURANCE PROGRAM

SEC. 435. As used in this part:

(a) The term "eligible institution" means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part.

(b) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, *or who are beyond the age of compulsory school attendance*, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, (B) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, and (C) if the Commissioner determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(d) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(e) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(f) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

[(g) The term "eligible lender" means an eligible institution, an agency or instrumentality of a State, or a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Commissioner for this purpose.]

(g)(1) The term "eligible lender" means—

(A) a National or State chartered commercial bank, a mutual savings bank, a savings and loan association, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part;

(B) a pension fund as defined in the Employees Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single private, nonprofit agency designated by the State which has signed an agreement pursuant to section 433(a);

(E) an eligible educational institution which meets the requirements of paragraph (2) of this subsection and which has signed an agreement pursuant to section 433(b); and

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market.

(2) To be an eligible lender under this part, an eligible educational institution—

(A) must employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(B) must not be a home study school; and

(C) must meet additional criteria established by the Commissioner.

(h) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(i) The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured under this part, the use of collection practices at least as extensive and forceful as those generally in force among financial institutions for the collection of consumer loans.

DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

SEC. 436. (a) [The Board of Commissioners] *The Government* of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Commissioner for the purposes of this title [and such Act], (2) to enter into such agreements with the Commissnoner, (3) to use amounts appropriated [to such Board] for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid note or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) There are authorized to be appropriated [to such Board] such amounts as may be necessary for the purposes of this section.

REPAYMENT BY THE COMMISSIONER OF LOANS OF DECEASED OR DISABLED BORROWERS

SEC. 437. *(a)* If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Commissioner shall repay the amount of the loan so discharged.

[ELIGIBILITY OF INSTITUTIONS

[SEC. 438. (a) Notwithstanding any other provision of this part, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

[(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b);

[(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the commissioner has an agreement under section 428(b);

[(3) the limitation, suspension, or termination of the eligibility under this part of any otherwise eligible institution, whenever the Commissioner has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this part.

[(b) The Commissioner shall publish a list of State agencies which he determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.]

SPECIAL ALLOWANCE

SEC. 438. (a)(1) To assure that the limitations on interest or other conditions (or both) applicable under this part to student loans eligible for insurance under a State or nonprofit private insurance program covered by an agreement under section 428(b) or by the Commissioner, considered in light of the then current economic conditions and in particular the relevant money market, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable. the Secretary shall pay to the holders of such loans a special allowance determined in accordance with paragraph (3).

(2) The special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30. and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the unpaid balance of disbursed principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(3)(A) Subject to subparagraphs (B) and (C) and paragraph (5), the special allowance paid pursuant to this subsection shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period. (ii) by substracting 3.5 per centum from such average, and (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum.

(B) Except as provided in paragraph (5), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period to exceed 5 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate interval which would not cause such excess, or (ii) cause such allowance for such period to fall short of 1 per centum, such allowance rate shall be increased to the lowest one-eighth of 1 per centum interval which would not cause such shortage.

(4) Subject to paragraph (5), the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Commissioner.

(5)(A) If payment of the special allowance payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Commissioner has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (3) plus 7 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date of payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this subparagraph shall be segregated and reported separately.

(6) As used in this section, the term "eligible loan" means a loan which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

(b) The Commissioner shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to subsection (a), subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary and the Commissioner to carry out their functions under this section and to carry out the purposes of this section.

(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of students. Regulations issued under section 2(a)(6)(B)(ii) of the Emergency Insured Student Loan Act of 1969 shall remain in effect until superseded or amended under this subsection.

(d) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 439. (a) The Congress hereby declared that it is the purpose of this section (*1*) to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), and which will provide liquidity for student loan investments[.]; *and (2) in order to facilitate secured transactions involving insured student loans, to provide for perfection of security interests in insured student loans either through the taking of possession or by notice filing.*

(b)(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue *and jurisdiction* in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be

representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

(3) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(d)(1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Commission under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b).

(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount on an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.

(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $50,000,000 in deposits and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) (1) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) (other than an institution outside the United States).

(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c) (3).

(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

(4) To the extent that net income is earned and realized, subject to subsection (g) (2), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(g) (1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) (1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

(2) The Secretary of Health, Education, and Welfare is authorized, prior to July 1, 1982, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(i) The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare and to the Association.

(l) All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(n) The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during such year.

FIVE-YEAR NONDISCHARGEABILITY OF CERTAIN LOAN DEBTS

SEC. 439A. (a) A debt which is a loan insured or guaranteed under the authority of this part may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan, except that prior to the expiration of that five-year period, such loan may be released only if its payment from future income or other wealth will not impose an undue hardship on the debtor or his dependents.

(b) Subsection (a) of this section shall be effective with respect to any proceedings begun under the Bankruptcy Act thirty days after the date of enactment of this section.

EMERGENCY INSURED STUDENT LOAN ACT OF 1969

AN ACT To authorize special allowances for lenders with respect to insured student loans under title IV–B of the Higher Education Act of 1965 when necessary in the light of economic conditions in order to assure that students will have reasonable access to such loans for financing their education, and to increase the authorizations for certain other student assistance programs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Insured Student Loan Act of 1969".

INCENTIVE PAYMENTS ON INSURED STUDENT LOANS

SEC. 2. (a)(1) Whenever the Secretary of Health, Education, and Welfare determines that the limitations on interest or other conditions (or both) applicable under part B of title IV of the Higher Education Act of 1965 (Public Law 89–329) to student loans eligible for insurance by the Commissioner of Education or under a State or nonprofit private insurance program covered by an agreement under section 428(b) of such Act, considered in the light of the then current economic conditions and in particular the relevant money market, are impending or threatening to impede the carrying out of the purposes of such part B and have caused the return to holders of such loans to be less than equitable, he is hereby authorized, by regulation applicable to a three-month period specified therein, to prescribe (after consultation with the Secretary of the Treasury and the heads of other appropriate agencies) a special allowance to be paid by the Commissioner of Education to each holder of an eligible loan or loans. The amount of such allowance to any holder with respect to such period shall be a percentage, specified in such regulation of the average unpaid balance of disbursed principal (not including interest added to principal) of all eligible loans held by such holder during such period, which balance shall be computed in a manner specified in such regulation; but no such percentage shall be set at a rate in excess of 3 per centum per annum.

(2) A determination pursuant to paragraph (1) may be made by the Secretary of Health, Education, and Welfare, on a national, regional, or other appropriate basis and the regulations based thereon may, accordingly, set differing allowance rates for different regions or other areas or classifications of lenders, within the limit of the maximum rate set forth in paragraph (1).

(3) For each three-month period with respect to which the Secretary of Health, Education, and Welfare prescribes a special allowance, the determination required by paragraph (1) shall be made, and the percentage rate applicable thereto shall be set, by promulgation of a new regulation or by amendment to a regulation applicable to prior period or periods.

(4) The special allowance established for any such three month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this Act. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Commissioner.

(5) Each regulation or amendment, prescribed under this Act, which establishes a special allowance with respect to a three-month period specified in the regulation or amendment shall, notwithstanding section 505 of the Higher Education Amendments of 1968, apply to the three-month period immediately preceding the period in which such regulation or amendment is published in the Federal Register, except that the first such regulation may be made effective as of August 1, 1969, and notwithstanding other provisions of this section requiring a three-month period, may be made effective for a period of less than three months.

(6)(A) The Secretary of Health, Education, and Welfare shall determine, with respect to the student insured loan program as authorized under part B of title IV of the Higher Education Act of 1965 and this Act, whether there are any practices of lending institutions which may result in discrimination against particular classes or categories of students, including the requirement that as a condition to the receipt of a loan the student or his family maintain a business relationship with the lender, the consequences of such requirement, and the practice of refusing to make loans to students for their freshman year of study, and also including any discrimination on the basis of sex, color, creed, or national origin. The Secretary shall make a report with respect to such determination, and his recommendations, to the Congress on or before March 1, 1970.

(B) If, after making such determination, the Secretary finds that, in any area, a substantial number of eligible students are denied a fair opportunity to obtain an insured student loan because of practices of lending institutions in the area which limit student participation, (i) he shall take such steps as may be appropriate, after consultation with the appropriate State guarantee agencies and the Advisory Council on Financial Aid to Students, relating to such practices and to encourage the development in such area of a plan to increase the availability of financial assistance opportunities for such students, and (ii) he shall, within sixty days after making such determination, adopt or amend appropriate regulations pertaining to the student insured loan program to prevent, where practicable, and practices which he finds have denied loans to a substantial number of students.

(7) As used in this Act, the term "eligible loan" means a loan made on or after August 1, 1969, and prior to [July 1, 1975] *October 1, 1977*, which is insured under title IV-B of the Higher Education Act of 1965, or made under a program covered by an agreement under section 428(b) of such Act.

(b) The Commissioner of Education shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to subsection (a), subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary of Health, Education, and Welfare and the Commissioner to carry out their functions under this Act and to carry out the purposes of this Act.

(c) (1) There are hereby authorized to be appropriated for special allowances as authorized by this section not to exceed $20,000,000 for the fiscal year ending June 30, 1970, $40,000,000 for the fiscal year ending June 30, 1971, and for succeeding fiscal years such sums as may be necessary.

(2) Sums available for expenditure pursuant to appropriations made for the fiscal year ending June 30, 1969, under section 421(b) (other than clause (1) thereof) of the Higher Education Act of 1965 shall be available for payment of special allowances under this Act. The authorization in paragraph (1) shall be reduced by the amount made available pursuant to this paragraph.

[Effective October 1, 1977, the Emergency Insured Student Loan Act of 1969 is repealed.]

[EMERGENCY INSURED STUDENT LOAN ACT OF 1969

[AN ACT To authorize special allowances for lenders with respect to insured student loans under title IV-B of the Higher Education Act of 1965 when necessary in the light of economic conditions in order to assure that students will have reasonable access to such loans for financing their education, and to increase the authorizations for certain other student assistance programs

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Emergency Insured Student Loan Act of 1969".

[INCENTIVE PAYMENTS ON INSURED STUDENT LOANS

[SEC. 2. (a) (1) Whenever the Secretary of Health, Education, and Welfare determines that the limitations on interest or other conditions (or both) applicable under part B of title IV of the Higher Education Act of 1965 (Public Law 89–329) to student loans eligible for insurance by the Commissioner of Education or under a State or nonprofit private insurance program covered by an agreement under section 428(b) of such Act, considered in the light of the then current economic conditions and in particular the relevant money market, are impending or threatening to impede the carrying out of the purposes of such part B and have caused the return to holders of such loans to be less than equitable, he is hereby authorized, by regulation applicable to a three-month period specified therein, to prescribe (after consultation with the Secretary of the Treasury and the heads of other appropriate agencies) a special allowance to be paid by the Commissioner of Education to each holder of an eligible loan or loans. The amount of such allowance to any holder with respect to such period shall be a percentage, specified in such regulation, of the average unpaid balance of disbursed principal (not including interest added to principal) of all eligible loans held by such holder during such period, which balance shall be computed in a manner specified in such regulation; but no such percentage shall be set at a rate in excess of 3 per centum per annum.

[(2) A determination pursuant to paragraph (1) may be made by the Secretary of Health, Education, and Welfare, on a national, regional, or other appropriate basis and the regulations based thereon may, accordingly, set differing allowance rates for different regions or other areas or classifications of lenders, within the limit of the maximum rate set forth in paragraph (1).

[(3) For each three-month period with respect to which the Secretary of Health, Education, and Welfare prescribes a special allowance, the determination required by paragraph (1) shall be made, and the percentage rate applicable thereto shall be set, by promulgation of a new regulation or by amendment to a regulation applicable to a prior period or periods.

[(4) The special allowance established for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this Act. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Commissioner.

[(5) Each regulation or amendment, prescribed under this Act, which establishes a special allowance with respect to a three-month period specified in the regulation or amendment shall, notwithstanding section 505 of the Higher Education Amendments of 1968, apply to the three-month period immediately preceding the period in which such regulation or amendment is published in the Federal Register, except that the first such regulation may be made effective as of August 1, 1969, and notwithstanding other provisions of this section requiring a three-month period, may be made effective for a period of less than three months.

[(6)(A) The Secretary of Health, Education, and Welfare shall determine, with respect to the student insured loan program as authorized under part B of title IV of the Higher Education Act of 1965 and this Act, whether there are any practices of lending institutions which may result in discrimination against particular classes or categories of students, including the requirement that as a condition to the receipt of a loan the student or his family maintain a business relationship with the lender, the consequences of such requirement, and the practice of refusing to make loans to students for their freshman year of study, and also including any discrimination on the basis of sex, color, creed, or national origin. The Secretary shall make a report with respect to such determination, and his recommendations, to the Congress on or before March 1, 1970.

[(B) If, after making such determination, the Secretary finds that, in any area, a substantial number of eligible students are denied a fair opportunity to obtain an insured student loan because of practices of lending institutions in the area which limit student participation, (i) he shall take such steps as may be appropriate, after consultation with the appropriate State guarantee agencies and the Advisory Council on Financial Aid to Students, relating to such practices and to encourage the development in such area of a plan to increase the availability of financial assistance opportunities for such students, and (ii) he shall, within sixty days after making such determination, adopt or amend appropriate regulations pertaining to the student insured loan program to prevent, where practicable, and practices which he finds have denied loans to a substantial number of students.

[(7) As used in this Act, the term "eligible loan" means a loan made on or after August 1, 1969, and prior to October 1, 1977 which is insured under title IV–B of the Higher Education Act of 1965, or made under a program covered by an agreement under section 428(b) of such Act.

[(b) The Commissioner of Education shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special alowance prescribed pursuant to subsection (a), subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary of Health, Education, and Welfare and the Commissioner to carry out their functions under this Act and to carry out the purposes of this Act.

[(c)(1) There are hereby authorized to be appropriated for special allowances as authorized by this section not to exceed $20,000,000 for the fiscal year ending June 30, 1970, $40,000,000 for the fiscal year ending June 30, 1971, and for succeeding fiscal years such sums as may be necessary.

[(2) Sums available for expenditure pursuant to appropriations made for the fiscal year ending June 30, 1969, under section 421(b) (other than clause (1) thereof) of the Higher Education Act of 1965 shall be available for payment of special allowances under this Act. The authorization in paragraph (1) shall be reduced by the amount made available pursuant to this paragraph.]

INDIVIDUAL VIEWS

As the principal sponsor of H.R. 14070, and as Chairman of the Subcommittee in which most of its provisions were developed, I hope I will be forgiven for expressing my general satisfaction at the shape the legislation has taken, and at the ability of the Committee to overcome substantial differences of opinion on the purpose of loan programs, and the desirable future shape of student financing. Members who began with varying views of the interests of students, of high-priced and low-priced institutions, of the Federal and State agencies involved, were able to come, after some very tough negotiation, to the development of a piece of legislation which most of us can support with enthusiasm, and which, I believe, almost all of us will support even if our particular views on all provisions do not prevail in the long run.

I think it is particularly appropriate to mention the way in which a bipartisan effort to solve the problems with the loan program was sustained throughout the consideration of this legislation. The minority's chief spokesman on loan legislation, the gentleman from Illinois (MR. ERLENBORN), was more than merely fair—he went out of his way to be helpful in the development of H.R. 14070. I believe that students owe the gentleman and other Members of the Committee on both sides of the aisle a debt of gratitude on this legislation.

But nevertheless, I must express my deep disappointment at one amendment to the bill.

I refer to the provisions of the proposed Sec. 439A, which bars students from access to the bankruptcy procedures under Title XI of the U.S. Code for a period of five years. The bankruptcy provisions of this bill is, in my opinion, a discriminatory remedy for a "scandal" which exists primarily in the imagination.

The proponents of this amendment assert that a large and growing number of students are cheating the government by utilizing a loophole in the law which enables them to simply, easily, and harmlessly evade paying their debts.

Each of the components of that argument has to be examined in the cold light of fact.

First. "A large and growing number of students." There have been nearly eight *million* loans made under this program involving about eight *billion* dollars. Of those, according to the Office of Education's own testimony before the Judiciary Committee, there has been a total of 15,270 loans discharged in bankruptcy, involving a total of $20.9 million dollars. In other words, two-tenths of one percent of the loans made have been discharged in bankruptcy, involving less than three-tenths of one percent of the dollars.

Another statistic we are given by OE in its desire to secure the enactment of this amendment, is that "4% of the claims" stem from bankruptcy. But it is important to remember that *claims* only total something like 16% of the loans in repayment status. To reduce this again to the "percentages" which the proponents of the amendment like to utilize, this means that four percent of sixteen percent of the mature loans are discharged in bankruptcy. That totals up to six-tenths of one percent of the mature loans. I don't mean to minimize the story of economic distress and personal tragedy that these figures suggest. But to assert that a practice involving less than one student borrower out of two hundred is a "large and growing scandal" seems a little disproportionate. But, the proponents of the amendment tell us, "The number of bankrupts is growing by leaps and bounds. One list that was presented to the Committee, after the amendment was adopted, contained a list of truly large *percentages* of increase." For example, we are told, in the State of California, the percentage increase in bankruptcies from 1971 to 1972 was 38%! It took the better part of a day to find anyone in OE who would tell my office how many bankruptcies that actually meant, but the "38%" amounted to an additional total, in the largest state of the Union, of 80 bankruptcies—from 210 to 290. In another state, Pennsylvania, the *percentages* were even higher. We were told that in FY 1972 there was a 225% increase from the preceding year, in 1973 a 23.1% increase; in 1974 a 25% increase, and in 1975 a 120% increase. Again, it took quite some time to unearth the absolutely figures behind these frightening percentages, but we now have them. In FY 1971, in Pennsylvania, with its large population, substantial number of students, and very large and successful state guarantee program, there were four bankruptcies. The "225%" increase in FY 1972 moved the total to 13. Three more bankruptcies emerged in this large state in 1973, nine more in 1974, and 30 more in 1975, to a total of 55 bankruptcies in that year!

The second implication alleged to be supported by the statistical evidence brought before the Committee has been that this phenomenon is particularly pronounced among students. The facts are that it is not. Students are, indeed, going bankrupt in larger numbers than they used to. So are college presidents, garage owners, Federal and State civil servants, the owners of homes financed by government-guaranteed loans, and *every other class of borrowers in the society*. Bankruptcy is a growing phenomenon. Student bankruptcy is only growing at a larger *percentage* rate than other bankruptcy because it has only been in the past several years that there have been any substantial number of educational loans coming into maturity.

I do not argue with those who believe that bankruptcy is a growing problem, and that there are arguments for taking a long and thorough look at the entire Bankruptcy Act in order to see if it should be changed as a whole. The Committee on the Judiciary is doing exactly that, and I believe we should look at the recommendations of that Committee with great care. But neither that committee nor our own committee has been presented with any facts or figures which would indicate that students are behaving differently than other types of citizens with respect to bankruptcy.

Second, "cheating the Government by utilizing a loophole in the law." Some of the defenders of this or related proposals to bar access to Chapter 11 for student borrowers imply that the students are really defrauding the government by twisting a special provision of law, which works only to the benefit of students, and that all this provision does is to treat students like everyone else. This is wholly erroneous, and, indeed, the major flaw in the bankruptcy provision is not that it treats students like everyone else, but that it treats them differently. *There is no special bankruptcy procedure under present law for student borrowers.* They have exactly the same access to the Federal bankruptcy courts that everyone else has—including railroad executives, lawyers and truck drivers. Present law gives students no advantage and confers upon them no disadvantage in facing up to bankruptcy. Bankruptcy is mentioned in the Constitution, provided for by an entire title of the United States Code, and is a perfectly legal and legitimate procedure available to those whose circumstances force it upon them. The proposal in this bill does not take away a special privilege from your children, and the growing number of adults, who have entered into educational indebtedness. On the contrary, it visits a special discrimination upon them. It treats them—this is not rhetoric, this is a precise and accurate reference to the actual proposal in the bill—it treats educational loans precisely as the law now treats loans incurred by fraud, felony, and alimony-dodging. *No other legitimately contracted consumer loan, applied to a legitimate undertakin, is subjected to the assumption of criminality which this provision applies to every educational loan.* This part of H.R. 14070, whatever else it may be called, hardly deserves the name of "student assistance." On the contrary, it is a direct, unmitigated, slap in the face of every single student borrower in the nation. It assumes that borrower's bad intentions, and deprives him of a right which every other citizen has available to him if he needs it.

Third. "Simply, easily and harmlessly evade the paying of their debts." The Sunday supplement stories would have us believe that students (and the other bankrupts those stories almost never mention) can go through bankruptcy without a serious second thought; that it is an easy process by which they can painlessly transfer their obligations to the taxpayer. The fact is, of course, that bankruptcy is a serious step, that it involves the distribution of the bankrupt's assets and much of his income among his creditors, and that it is basically damaging to the credit and personal reputation of those forced to go through it. It can be entered into a last resort; it can, and sometimes is, entered into imprudently and without sufficient thought to its consequences, but it is not and has never been designed to be an "easy way out" for the bankrupt. Bankruptcy, for most of those who enter into it, carries its own deleterious consequences.

The Committee has heard from a number of people who want this provision in the law, including the Administration, a few of the State Guarantee agencies, and a number of those lenders who only make educational loans (and whose zeal to make ever more of them seems a little inconsistent with their apparent view that students can't be trusted). These witnesses, whose knowledge and experience is wholly confined to the field of student credit, argue that student bankruptcies are getting worse. And they are right. But the commercial bankers who testified before our Committee, and the Committee on the Judiciary, and who have experience in the entire field of consumer credit, have testified that the provision is unnecessary and that students are not going into bankruptcy *more than other people.*

The Judiciary Committee, for example, heard the following from Walter W. Vaughan, of the American Banker's Association and Consumer Bankers Association Task Forces on Bankruptcy.

> While there is substantial concern with the abnormally high delinquency and loss rate on student loans, it has yet to be demonstrated that the bankruptcy losses are out of the ordinary. While we recognize that the idea of a student receiving a valuable education and then irresponsibly refusing to repay the loans which made this education possible is reprehensible, we are nonetheless opposed to this exception. This Section is contrary to the Bankruptcy Act policy of providing the bankrupt with a fresh start and we suspect that the damage done to the many "poor but honest debtors" will far exceed any possible benefit. We are not persuaded that the "hardship" exception will be that meaningful due to its vagueness. Secondly, this exception, in effect, gives the government agencies (which are the guarantors of many student loans) and educational institutions privileged treatment that is not warranted. If the social utility of what is exchanged for the debt is to be determinative of dischargeability then the question can be raised of whether it is proper to discharge medical bills, food bills, etc. This proposed change simply suggests that if sufficient political pressure can be generated, a special interest group can obtain special treatment under the bankruptcy law. We believe that this Section runs counter to the general policy of limiting exceptions to discharge and grounds for objecting to discharge and should be eliminated.

And Clive W. Bare, Bankruptcy Judge for the Eastern District of Tennessee, testifying on behalf of the National Bankruptcy Conference told the Judiciary Committee:

> The Conference disapproves this exception from the discharge of a bankrupt. There is no doubt but that the educational loan program is in difficulty but from the information available to the Conference, it appears to be primarily the program itself and the manner in which it has been administered that is causing the difficulty and not that of bankruptcy abuses. Further, there is no conclusive data that the number of students petitioning for bankruptcy poses any threat to the continuance of the educational loan program.
>
> Hard data on the impact of bankruptcy on the student loan program has been difficult to obtain. In a letter dated November 10, 1975, the Assistant Commissioner for Legislation, Office of Education, Department of Health, Education and Welfare, "estimated" that $17 million have been paid on bankruptcy claims in the Guaranteed/Insured Student Loan Program for Fiscal Year 1969 through Fiscal Year 1975 in both the State and Federal programs. With over $7 billion loaned, bankruptcy losses do not appear to present any great threat to the program. Commissioner Bell stated that ". . . as a percentage of total loans or total defaults, bankruptcies are a relatively small part of the problem." He indicated, however, that the increase in bankruptcies, in absolute numbers, has been significant. He further stated that student loan losses "can be minimized through adequate management.

> If the present problem is the result of abuses in the program itself, there seems no valid reason to single out student borrowers for discriminatory discharge treatment under the Bankruptcy Act.

In short, the bankers who provide most of the loans, and the men who consider bankruptcy petitions, and who are familiar with the administration of bankruptcy in all its ramifications, see no justification for the special treatment—discriminatory treatment—which this provision visits upon educational borrowers.

Treating students, all students, as though they were suspected frauds and felons is no substitute for improving the administration of the program. The default rate can and will be helped by the other provisions in the bill. The convenience of a few Federal and State bureaucrats and the protection of a few educational lenders from the risks they have demanded the right to take, does not justify the gratuitous insult which Sec. 439A levels at every education borrower in the nation.

The Committee on the Judiciary has asked that this Committee refrain from legislating in the field of bankruptcy, in which we have no expertise, and no jurisdiction, and on which we have heard no truly expert testimony. I believe that Committee is right to so request. We cannot properly intrude upon the delicate and intricate field of bankruptcy law solely on the basis of self-serving demands by a few individuals whose self-interest is served by giving the paper they hold a privileged status over the notes and bills owed to other people. To protect the debts owed to a college, or guaranteed by a State agency is only to provide special privilege for these few institutions. Even if the student were—and there is no evidence that he is—a worse credit risk than his neighbor, are we absolutely certain that we believe the college or bank who made him the loan is entitled to protection we do not accord to the grocery store, the tailor or the doctor to whom the same student may also owe money?

Sec. 439A is a special disadvantage laid upon the student, and a special advantage for the further protection of the educational lender—whose loans are already insured under this program. The testimony before our Committee doesn't show that either deserves it.

James G. O'Hara.

ADDITIONAL VIEWS—H.R. 14070

While we support many of the changes incorporated into H.R. 14070, including an amendment relating to student loan bankruptcies, we are very much opposed to two amendments adopted by the full Committee.

The first of the adopted amendments which we oppose raises the Federal insurance rate for state agencies and private guarantors to 100 percent from the current 80 percent rate. While we recognize the need for increasing the reinsurance rate for lenders with a good record of administration, we are absolutely opposed to increasing it to 100 percent for virtually everyone. It is our intention to offer an amendment to H.R. 14070 when it reaches the floor to establish the reinsurance rate at 100 percent if the default rate remains under 3 percent. If the rate rises above 3 percent but is under 7 percent, the state would have to cover 10 percentof any losses in excess of 3 percent. If the default rate exceeds 7 percent, the states would cover 20 percent of all losses over 7 percent.

Reinsurance rates

We oppose the provision of the committee bill establishing the reinsurance rate at 100 percent for the following reasons:

1. States have done a better job in collecting defaulted loans because they have a capital investment in making these collections. For each dollar not collected under law, the Federal government pays 80 cents, the state 20 cents. States are a lot more anxious to collect when they have some of their own dollars involved. The bill permits the default rate to increase to the incredible rate of *7 percent* before the reinsurance rate drops to 90 percent.

2. The bill already includes many incentives for state agency participation—

   (*a*) Payment of a 1 percent administrative cost allowance.

   (*b*) Creation of a system of advance payments for defaults for existing agencies.

   (*c*) Allocations for seed money for new state agencies.

   (*d*) Right to retain up to 30 percent of defaulted loan collections to cover costs.

With all of these incentives, why is it necessary to go to 100 percent reinsurance?

3. One hundred percent reinsurance will remove state legislative oversight of the program. Currently, state agencies are accountable for their performance to the governor and state legislature since the agencies go to them for the state share of losses (20 percent). That oversight has been a major factor in keeping agencies on their toes and making them responsive in a way OE has never been. Why remove that extremely important element of accountability?

4. Since states now bear part of the cost on defaults, establishing 7 percent as the rate above which the reinsurance rate drops does nothing more than legitimize a 7 percent rate at no cost to the state! States

which now have a lower rate would be able to slack off. New state agencies would unquestionably set 7 percent as a goal for defaults rather than 0 percent.

The amendment we favor by establishing a 3 percent default rate for 100 percent reinsurance is a much better incentive for good state performance. Currently several states have a default rate of under 3 percent. Only two states exceed 7 percent. By allowing 100 percent reinsurance up to a 7 percent rate, at least 21 states could increase their default rate entirely at the expense of the Federal government. *Eleven states could more than double their default rate under the committee bill.* We urge the support of the floor amendment to revise the reported bill.

Level for interest subsidy

The second amendment which we oppose raises the income level for an automatic interest subsidy from $15,000 adjusted income to $20,000 in FY '77 and $25,000 in FY '78. That one provision will increase the cost of the program by about $253 million annually by 1981.

The increase is also so substantial that under the committee bill, 90 percent of the families in this country will be able to qualify for subsidized loans. Hardly a way to preserve scarce resources or to target Federal dollars on those most in need!

It should be pointed out that current law does permit loans to families with incomes above $15,000. Such families can obtain a subsidized loan if actual need can be proved. This provision does permit schools and lenders flexibility in dealing with unusual circumstances and expenses for families above the automatic subsidy level.

In addition, the $15,000 figure in current loans refers to an adjusted amount. Actual gross income will actually be $20,000 or above before subsidy eligibility is terminated. Increasing the limit to $25,000 as adopted will raise the actual gross income level above $30,000. As noted, that figure will increase the subsidy-eligible population to 90 percent of all families.

Families from any income level do obtain a partially subsidized loan without any needs test. The GSL program provides loans of up to $2,500 per year to all undergraduate students with the student paying 7 percent interest while in school and the Feedral government paying the interest above 7 percent—an amount that has often been in excess of 2 percent. In effect then, every family already qualifies for a partially subsidized loan! The question is not whether a student can obtain a loan to go to school; the question is simply one of what level of subsidy should be provided.

Bankruptcies

Finally, we point with pride to the adoption of an amendment in Committee to exempt student loans from bankrupteies for five years after a student leaves school. This amendment should close a large and often-abused loophole in current law. Bankrupteies involving student loans increased by 56 percent last year while all non-business bankruptcies increased at about ½ that rate. This amendment will ensure that the bankruptcy laws are not misused.

ALBERT H. QUIE.
ALPHONZO BELL.
JOHN N. ERLENBORN.
VIRGINIA SMITH.

DISSENTING VIEWS

In addition to the objections to the Committee bill raised in the additional views, I take exception to the provisions of the reported bill which require that a student who wishes to obtain a loan from a college or university must first obtain a statement from a bank certifying that it will not make the loan in question.

I feel that this is a foolish provision designed to harass students and to discourage colleges (and states or direct lenders) from providing loans. In many cases it is the college which is best able to provide that loan. The college usually knows more about the student, his family circumstances and financial need than a bank. Why should that type of loan be subjected to a different set of standards? In fact, why are we trying to discourage colleges from making loans and directing the business to the banks?

Although the reported bill is less onerous than the earlier amendment proposed in Committee, since it applies only to the first loan a student obtains, it is still an unnecessary burden to impose and one that will merely create more paperwork and confusion.

ALBERT H. QUIE.